

LOCAL AGENCY FORMATION COMMISSION ORANGE COUNTY

12 Civic Center Plaza, Room 235
Santa Ana, CA 92701
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REGULAR MEETING AGENDA

Wednesday, April 12, 2006, 9:00 a.m.
Planning Commission Hearing Room, Hall of Administration
10 Civic Center Plaza, Santa Ana

Any member of the public may request to speak on any agenda item at the time that item is being considered by the Commission.

1. CALL THE MEETING TO ORDER

2. PLEDGE OF ALLEGIANCE – BY COMMISSIONER SCHAFER

3. ROLL CALL

4. APPROVAL OF MINUTES:

a.) March 8, 2006 – Regular Commission Meeting

5. PUBLIC COMMENT

This is an opportunity for members of the public to address the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken on off-agenda items unless authorized by law.

6. CONSENT CALENDAR

None

7. PUBLIC HEARING

a.) Irvine Ranch Water District/Santiago County Water District Reorganization (RO 06-04)

The Commission will consider a request by the Irvine Ranch Water District and Santiago County Water District's Boards of Directors to consolidate the two districts and designate the Irvine Ranch Water District (IRWD) as the single successor agency. The Commission will also consider amendments to the Irvine Ranch Water District and Orange County Sanitation District's (OCSD) spheres of influence in accordance with the reorganization.

b.) Adoption of Proposed LAFCO Budget for Fiscal Year 2006-2007

The Commission will consider the adoption of the draft LAFCO operations budget for Fiscal Year 2006-2007.

8. COMMISSION DISCUSSION

a.) Sullivan Annexation to the Orange County Sanitation District (DA 05-16)

The Commission will consider the annexation of approximately 1 acre of uninhabited territory located in unincorporated Orange Park Acres to the Orange County Sanitation District.

b.) Regional Housing Needs Assessment (RHNA) Allocation Discussion with Tim Neely

Tim Neely, Director of Planning & Development Services for the County's Resources & Development Management Department, will discuss issues associated with the Regional Housing Needs Assessment (RHNA) program.

9. COMMISSIONER COMMENTS

This is an opportunity for commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken on off-agenda items unless authorized by law.

10. INFORMATIONAL ITEMS & ANNOUNCEMENTS

None

11. CLOSED SESSION

None

12. ADJOURNMENT

NOTICE: *State law requires that a participant in a LAFCO proceeding who has a financial interest in a decision and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the hearing.*

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DRAFT MINUTES

LAFCO REGULAR MEETING

Wednesday, March 8, 2006, 9:00 a.m.

Planning Commission Hearing Room, Hall of Administration
10 Civic Center Plaza, Santa Ana

(Any member of the public may request to speak on any agenda item at the time that item is being considered by the Commission.)

1. CALL TO ORDER

Chair Robert Bouer called the regular meeting of the Local Agency Formation Commission (LAFCO) to order at 9:05 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Rhonda McCune led the pledge of allegiance.

3. ROLL CALL

The following commissioners and alternates were present:

- **Commissioner Robert Bouer**
- **Commissioner Bill Campbell**
- **Commissioner Peter Herzog**
- **Commissioner Arlene Schafer**
- **Commissioner Susan Wilson**
- **Commissioner John Withers**
- **Alternate Commissioner Patsy Marshall**
- **Alternate Commissioner Rhonda McCune**
- **Alternate Commissioner James Silva**
- **Alternate Commissioner Charley Wilson**

The following LAFCO staff members were present:

- Legal Counsel Clark Alsop
- Executive Officer Joyce Crosthwaite
- Assistant Executive Officer Bob Aldrich
- Project Manager Carolyn Emery
- Project Manager Kim Koeppen
- Communications Analyst Danielle Ball
- Administrative Assistant Daphne Charles

4. APPROVAL OF MINUTES

a.) February 8, 2006 – Regular Commission Meeting

MOTION: Approve minutes from February 8, 2006 as presented
and without revision (Arlene Schafer)

SECOND: Bill Campbell

FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene
Schafer, James Silva, Susan Wilson, John Withers

AGAINST: None

ABSTAIN: None

MOTION PASSED

5. PUBLIC COMMENT

Chair Bouer requested public comments on any non-agenda item. Receiving no comments, he closed the public comment agenda item.

6. CONSENT CALENDAR

a.) Legislative Report

b.) Planning Area 5A & 9B Annexation to the City of Irvine (CA 05-61)

MOTION: Approve consent calendar (John Withers)

SECOND: Susan Wilson

FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene
Schafer, James Silva, Susan Wilson, John Withers

AGAINST: None

ABSTAIN: None

MOTION PASSED

7. CONTINUED PUBLIC HEARING

a.) Sphere of Influence Review for the City of Los Alamitos (SOI 05-31)

b.) Sphere of Influence Review for the Rossmoor Community Services
District (SOI 05-33)

c.) Sphere of Influence Review for the City of Seal Beach (SOI 05-32)

d.) Sphere of Influence Review for the Rossmoor/Los Alamitos Sewer
District (SOI 05-34)

e.) Sphere of Influence Review for the Sunset Beach Sanitary District (SOI
05-35)

f.) Municipal Service Reviews and Governance Strategy for South Orange
County (MSR 05-24)

g.) Sphere of Influence Review for the City of Mission Viejo (SOI 05-25)

- h.) Sphere of Influence Review for the City of Rancho Santa Margarita (SOI 05-26)
- i.) Sphere of Influence Review for the City of San Clemente (SOI 05-27)
- j.) Sphere of Influence Review for the City of San Juan Capistrano (SOI 05-28)
- k.) Sphere of Influence Review for the Santa Margarita Water District (SOI 05-29)
- l.) Sphere of Influence Review for the Trabuco Canyon Water District (SOI 05-30)

7a. Sphere of Influence Review for the City of Los Alamitos (SOI 05-31)

Assistant Executive Officer Aldrich presented the staff report for the City of Los Alamitos' sphere of influence (SOI) update. He stated that the Commission established the city's original sphere in 1974 and reconfirmed it 1981 and 1989. He explained that staff recommended amending the city's sphere to include the unincorporated community of Rossmoor, which would help the city and community cooperatively plan for long-term service provision, should the residents of Rossmoor choose to annex to the city in the future.

Executive Officer Crosthwaite added that the residents of Rossmoor had requested continuing the public hearing on the City of Los Alamitos' sphere prior to the July 2006 Commission meeting.

Commissioner Silva requested to hear public testimony before initiating Commission discussion.

Chair Bouer opened the public hearing.

Eric Christensen, a member of the Rossmoor Planning Committee, requested that the Commission delay making a determination on the City of Los Alamitos' sphere of influence until its July 2006 meeting. He indicated that the committee was in the process of studying Rossmoor's governance options. He noted that the committee had hired a consultant and anticipated completing its study in May, after which it would coordinate town hall meetings. He expressed disappointment that LAFCO staff would rush its recommendations in advance of the committee completing its study. He added that Rossmoor residents were not necessarily opposed to inclusion in the City of Los Alamitos' sphere; they just want the benefit of considering all of the information before the Commission makes its decision.

At **Commissioner Herzog's** request, Mr. Christensen clarified the Rossmoor Planning Committee's request for continuance.

Commissioner McCune asked if the Rossmoor Planning Committee had received an indication that any of the existing municipalities would consider the formation of a “super city.” Mr. Christensen responded no, adding that the City of Seal Beach stated unequivocally that it would not consider that option.

Commissioner S. Wilson asked if the Rossmoor Planning Committee would commit to having its study completed by June 1, 2006, if the Commission granted the continuance. Mr. Christensen promised that the study would be completed by the June 1 deadline. He added that, while the committee would initiate its public outreach efforts by June 1, the committee might need more time to complete the town hall meetings and gauge the residents’ wishes.

Rossmoor residents Russ Lightcap and Tom Fitzgerald deferred their speaking time to Mr. Christensen.

Carol Sylvia, a Rossmoor resident, expressed upset that the City of Seal Beach had been allowed to annex the Rossmoor Shopping Center more than three decades ago, thereby crippling Rossmoor’s chance to become an independent city. She said it was unfair to ask the City of Los Alamitos to annex Rossmoor without a tax base and suggested that the Commission return the shopping center to the community.

Lee Whittenberg, Director of Development Services for the City of Seal Beach, stated that the city was opposed to changing its boundaries or the creation of a “super city” in the area. He said that the cities already work together in ways that are economically beneficial. He further added that it was irresponsible to suggest that Seal Beach detach the shopping center, which has been part of the city since the 1960s.

Chair Bouer closed the public hearing.

Commissioner Silva expressed his respect for Executive Officer Crosthwaite and LAFCO staff and thanked them for their efforts. He agreed that Rossmoor lacks the financial base to become an independent city. He suggested that it was premature for the Commission to put Rossmoor in any city’s sphere of influence and requested that his fellow commissioners grant the community an opportunity to complete its study.

Commissioner Silva made a motion to continue consideration of the City of Los Alamitos’ sphere of influence. **Commissioner Campbell** seconded the motion.

Commissioner S. Wilson indicated that she would support the motion in light of the promises made to the Commission by Mr. Christensen.

Commissioner Herzog cautioned that the Rossmoor Planning Committee should comprehensively study all police service options, not merely focus on one or two. He stated that, in light of the motion, the Commission should additionally continue its consideration of the City of Seal Beach's sphere of influence and suggested that **Commissioner Silva** amend his motion.

Commissioner S. Wilson suggested that, rather than **Commissioner Silva** amending his motion, the Commission consider the proposals one at a time. **Commissioner Silva** stated that meetings between the Sheriff's Department and Rossmoor Planning Committee had already been scheduled and added that the committee was considering all of its options.

Responding to a question posed by **Commissioner Campbell**, Legal Counsel Alsop stated that the Commission lacks the authority to remove territory from a city without said city's consent.

Commissioner Campbell stated that he would be willing to consider additional data supplied by the Rossmoor Planning Committee but, as a word of caution, indicated he was supportive of staff's current recommendations to place Rossmoor in the City of Los Alamitos' sphere of influence.

MOTION: Continue consideration of the City of Los Alamitos' sphere of influence to the July 2006 LAFCO meeting (James Silva)
SECOND: Bill Campbell
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None
ABSTAIN: None
MOTION PASSED

7b. Sphere of Influence Review for the Rossmoor Community Services District (SOI 05-33)

Assistant Executive Officer Aldrich presented the staff report for the Rossmoor Community Services District sphere of influence (SOI) update. He explained that the CSD was formed in 1986 to provide street lighting, sweeping, median landscaping, tree maintenance, and park and recreation services for the unincorporated community of Rossmoor. He indicated that the Commission assigned the CSD a coterminous sphere of influence in 1989 and

said staff recommended reaffirming the district's current coterminous sphere of influence at this time.

Chair Bouer opened the public hearing.

Executive Officer Crosthwaite indicated that she had not received any speaker cards from the audience.

Chair Bouer closed the public hearing without any comments from the public.

Commissioner Silva made a motion to continue the Commission's consideration of the Rossmoor Community Services District's sphere of influence until the July 2006 LAFCO meeting.

Commissioner Herzog suggested reaffirming the CSD's current sphere of influence, since staff's review did not turn up any issues. **Commissioner Silva** responded that he would prefer to continue the item as requested by the Rossmoor Planning Committee.

MOTION: Continue consideration of the Rossmoor Community Services District's sphere of influence to the July 2006 LAFCO meeting (James Silva)
SECOND: Arlene Schafer
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None
ABSTAIN: None
MOTION PASSED

7c. Sphere of Influence Review for the City of Seal Beach (SOI 05-32)

Assistant Executive Officer Aldrich presented the staff report for the City of Seal Beach sphere of influence (SOI) update. He indicated that the Commission assigned the city a coterminous sphere in 1983 and reaffirmed it in 1989. He stated that staff saw no logical reason for expanding the city's current sphere of influence at this time and recommended that the Commission reaffirm the city's current coterminous sphere of influence.

Chair Bouer opened the public hearing.

Lee Whittenberg, Director of Development Services for the City of Seal Beach, said that the city supports LAFCO staff's recommendations for a coterminous sphere of influence. He stated that the city sees no reason for the

Commission to continue its consideration of the city's sphere, adding that the Commission could amend the city's sphere at a future date if need be.

Chair Bouer closed the public hearing.

Following a question posed by **Commissioner Campbell's**, Legal Counsel Alsop confirmed that sphere boundaries do not extend beyond the coastline.

Commissioner McCune suggested that the Rossmoor Planning Committee include elected officials in discussions related to its current study.

MOTION: Continue consideration of the City of Seal Beach's sphere of influence to the July 2006 LAFCO meeting (Peter Herzog)
SECOND: Arlene Schafer
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, John Withers
AGAINST: Susan Wilson
ABSTAIN: None
MOTION PASSED

7d. Sphere of Influence Review for the Rossmoor/Los Alamitos Sewer District (SOI 05-34)

Assistant Executive Officer Aldrich presented the staff report for the Rossmoor/Los Alamitos Sewer District sphere of influence (SOI) update. He explained that the district formed in 1952 and serves a six-square-mile area that includes the unincorporated community of Rossmoor, as well as small portions of the Cities of Cypress, Long Beach, and Seal Beach. He indicated that the Commission established the district's initial sphere in 1975 and subsequently reviewed it in 1983, at which time it assigned a coterminous sphere of influence. He stated staff recommended that the Commission reaffirm the district's current coterminous sphere of influence.

Chair Bouer opened the public hearing. Receiving no comments, he then closed the public hearing.

MOTION: Adopt staff recommendations, including the adoption of a coterminous sphere of influence for the Rossmoor/Los Alamitos Sewer District (James Silva)
SECOND: Peter Herzog
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None

ABSTAIN: None
MOTION PASSED

7e. Sphere of Influence Review for the Sunset Beach Sanitary District (SOI 05-35)

Commissioner Herzog requested that the Commission reorganize the agenda so that it could consider the Sunset Beach Sanitary District's sphere of influence along with the City of Huntington Beach's municipal service review and sphere of influence update (item "8a" on the agenda). His fellow commissioners concurred.

7f. Municipal Service Reviews and Governance Strategy for South Orange County (MSR 05-24)

Executive Officer Crosthwaite suggested that the Commission discuss the municipal service review (MSR) for South Orange County in general terms and then consider each of the agency's spheres of influence individually. She invited general comments from the Commission regarding the MSR.

Commissioner Campbell made note of a letter from absent **Commissioner Tom Wilson**, supporting the adoption of staff recommendations.

Commissioner Schafer congratulated staff on a job well done.

Executive Officer Crosthwaite presented a PowerPoint presentation that highlighted each of the six stakeholder agencies—four cities (the Cities of Mission Viejo, Rancho Santa Margarita, San Clemente, and San Juan Capistrano) and two special districts (the Santa Margarita and Trabuco Canyon Water Districts)—and summarized the MSR process. She indicated that, because staff did not identify any service-related issues during its development of the MSR report, the South Orange County MSR stakeholder working group concentrated its discussions on the future governance of the area in light of the pending development of Rancho Mission Viejo.

7g. Sphere of Influence Review for the City of Mission Viejo (SOI 05-25)

Executive Officer Crosthwaite presented staff recommendations for the City of Mission Viejo sphere of influence (SOI) update, which included the reaffirmation of the city's current sphere of influence.

Chair Bouer opened the public hearing.

Dennis Wilberg, a representative from the City of Mission Viejo, voiced the city's support of staff recommendations. He extended his compliments to staff for coordinating a very cooperative and productive MSR process.

Executive Officer Crosthwaite offered to read absent **Commissioner Tom Wilson's** letter into the record per his request. **Commissioner Herzog** suggested that the letter be made part of the Commission's record, adding that each commissioner received a copy in advance of the Commission meeting.

Receiving no additional comments, **Chair Bouer** closed the public hearing.

MOTION: Adopt staff recommendations, including the reaffirmation of the City of Mission Viejo's current sphere of influence (Peter Herzog)
SECOND: Susan Wilson
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None
ABSTAIN: None
MOTION PASSED

7h. Sphere of Influence Review for the City of Rancho Santa Margarita (SOI 05-26)

Executive Officer Crosthwaite presented staff recommendations for the City of Rancho Santa Margarita's sphere of influence (SOI) update, which included the expansion of the city's northern sphere of influence boundary. She added that the sphere expansion was consistent with the city's General Plan.

Commissioner S. Wilson noted that **Commissioner Tom Wilson's** letter requested that specific items be made part of the motion for the South Orange County MSR. Executive Officer Crosthwaite responded that his concerns were related to governance, not the city's sphere of influence, and recommended that the Commission address his concerns later in the meeting. **Commissioner S. Wilson** agreed.

Chair Bouer opened the public hearing.

Kathleen Haton, a representative from the City of Rancho Santa Margarita, echoed Mr. Wilberg's positive sentiments about LAFCO staff and a very successful MSR process. She further voiced the city's support of staff recommendations.

Receiving no additional comments, **Chair Bouer** closed the public hearing.

Commissioner Herzog stated that the future governance of Coto de Caza and Wagon Wheel was of primary concern to the stakeholder working group. As Rancho Santa Margarita is the most likely future service provider to those unincorporated communities, he suggested revisions to the city's MSR determinations, as well as the resolution for MSR 05-24, indicating that the LAFCO believes the city to be the most logical future service provider and encouraging discussions to that end.

MOTION: Adopt staff recommendations, including changes to the City of Rancho Santa Margarita's current sphere of influence, and revise the resolutions (SOI 05-26 and MSR 05-24) as discussed (Peter Herzog)
SECOND: Susan Wilson
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None
ABSTAIN: None
MOTION PASSED

7i. Sphere of Influence Review for the City of San Clemente (SOI 05-27)

Executive Officer Crosthwaite presented staff recommendations for the City of San Clemente's sphere of influence (SOI) update, which included the reaffirmation of the city's current coterminous sphere of influence.

Chair Bouer opened the public hearing. Receiving no response, he then closed the public hearing without any comments from the public.

MOTION: Adopt staff recommendations, including reaffirmation of the City of San Clemente's current coterminous sphere of influence (Arlene Schafer)
SECOND: Bill Campbell
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None
ABSTAIN: None
MOTION PASSED

7j. Sphere of Influence Review for the City of San Juan Capistrano (SOI 05-28)

Executive Officer Crosthwaite presented staff recommendations for the City of San Juan Capistrano's sphere of influence (SOI) update, which included the reaffirmation of the city's current coterminous sphere of influence. She added that the city's current sphere includes one unincorporated island, for which staff just received an annexation application from the city.

Chair Bouer opened the public hearing. Receiving no response, he then closed the public hearing without any comments from the public.

MOTION: Adopt staff recommendations, including reaffirmation of the City of San Juan Capistrano's current coterminous sphere of influence (Arlene Schafer)
SECOND: Susan Wilson
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None
ABSTAIN: None
MOTION PASSED

7k. Sphere of Influence Review for the Santa Margarita Water District (SOI 05-29)

Executive Officer Crosthwaite presented staff recommendations for the Santa Margarita Water District's sphere of influence (SOI) update, which included the reaffirmation of the district's current sphere of influence.

Chair Bouer opened the public hearing. Receiving no response, he then closed the public hearing without any comments from the public.

MOTION: Adopt staff recommendations, including reaffirmation of the Santa Margarita Water District's current sphere of influence (Bill Campbell)
SECOND: Peter Herzog
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None
ABSTAIN: None
MOTION PASSED

7l. Sphere of Influence Review for the Trabuco Canyon Water District (SOI 05-30)

Executive Officer Crosthwaite presented staff recommendations for the Trabuco Canyon Water District's sphere of influence (SOI) update, including

proposed changes to the district's current sphere of influence. She indicated that staff proposes to remove two non-contiguous areas from the district's current sphere of influence.

Commissioner Campbell asked if ratepayers living in the area staff proposed removing from the district's sphere would pay significantly more if annexed to the adjacent service provider, the Irvine Ranch Water District (IRWD). Executive Officer Crosthwaite explained that the Trabuco Canyon Water District is engaged in a study that will result in a rate restructuring.

Chair Bouer opened the public hearing.

Don Chadd, General Manager of the Trabuco Canyon Water District, affirmed that the district is engaged in a rate study and said that he hoped that the new rate structure will be painless to the ratepayers.

Receiving no further response, **Chair Bouer** closed the public hearing.

MOTION: Adopt staff recommendations, including recommended changes to the Trabuco Canyon Water District's current sphere of influence (Peter Herzog)
SECOND: Arlene Schafer
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers
AGAINST: None
ABSTAIN: None
MOTION PASSED

7f. Municipal Service Reviews and Governance Strategy for South Orange County (MSR 05-24)

Commissioner Herzog made a motion to adopt staff recommendations for the South County MSR and government structure options. In consideration of **Commissioner T. Wilson's** letter, he directed staff to return to the Commission with quarterly updates regarding South County governance issues and discussions. **Commissioner Schafer** seconded the motion.

MOTION: Adopt staff recommendations for the South County MSR and government structure options; direct staff to provide quarterly updates to the Commission (Peter Herzog)
SECOND: Arlene Schafer
FOR: Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers

AGAINST: None

ABSTAIN: None

MOTION PASSED

7e. Sphere of Influence Review for the Sunset Beach Sanitary District (SOI 05-35)

The Commission considered the Sunset Beach Sanitary District's sphere of influence, which was deferred from earlier in the meeting so that it could be considered along with the City of Huntington Beach's municipal service review and sphere of influence update.

Assistant Executive Officer Aldrich presented the staff report for the Sunset Beach Sanitary District's sphere of influence (SOI) update. He indicated that the district, established in 1930, provides sewer and trash service by contract to the unincorporated community of Sunset Beach, the gated residential community of Surfside located within the City of Seal Beach, and a small portion of the City of Huntington Beach. He stated that the district's boundaries have remained static for 76 years and that the Commission last reviewed the district's sphere 23 years ago, at which time it assigned a coterminous sphere to the district.

Mr. Aldrich stated that staff recommended the Commission assign the Sunset Beach Sanitary District a transitional sphere of influence as a means to signal to the district that alternative service provision options should at least be examined at this time. He explained that, because the district is virtually surrounded by the City of Huntington Beach, the city is the logical long-term municipal service provider for the area. He additionally noted that a transitional sphere of influence would have no effect on current service provision.

Commissioner Campbell noted that the district's ratepayers currently receive trash pick-up twice per week. Mr. Aldrich explained that an independent consultant, paid for by LAFCO, thoroughly reviewed the district and city's rates and concluded that, the district's rates are slightly higher than the city's rates, which offsets the higher service level provided by SBSD. Referring to the hand-out provided by district representatives, Mr. Aldrich said that LAFCO staff disputes the district's rate figures.

Executive Officer Crosthwaite interjected that, because LAFCO and district staffs could not come to consensus regarding the rate comparison, LAFCO staff excluded the consultant's analysis from the staff report. She further added that the City of Huntington Beach had not expressed any interest in annexing the area.

Commissioner S. Wilson cautioned that she supported the adoption of a coterminous sphere of influence for the district, though declined to make a motion.

The Commission concurred that it would hold concurrent public hearings for items “7e,” the Sphere of Influence Review for the Sunset Beach Sanitary District (SOI 05-35), and “8a,” Municipal Service Review and Sphere of Influence Update for the City of Huntington Beach (MSR 06-01 & SOI 06-02), because of they were interrelated.

8. PUBLIC HEARING

a.) Municipal Service Review and Sphere of Influence Update for the City of Huntington Beach (MSR 06-01 & SOI 06-02)

8a. Municipal Service Review and Sphere of Influence Update for the City of Huntington Beach (MSR 06-01 & SOI 06-02)

Project Manager Emery presented the staff report for the municipal service review (MSR) and sphere of influence (SOI) update for the City of Huntington Beach (MSR 06-01 & SOI 06-02). She summarized the services provided by Huntington Beach, a full-service city, and added that the city provides some water services beyond its corporate boundaries. She further summarized the nine service review determinations, indicating that government structure options was the only category that warranted staff attention because of potential annexation applications in this area.

Ms. Emery explored each of three unincorporated areas adjacent to the city’s boundaries, which include the Bolsa Chica Ecological Preserve, a 41-acre island located between the Cities of Huntington Beach and Westminster, and the unincorporated community of Sunset Beach. She indicated that, because of potential annexation applications in this area, Bolsa Chica was not included in the SOI review. She further added that the City of Huntington Beach had not expressed any interest in annexing the unincorporated island and indicated that the island issue would be further examined with the City of Westminster’s municipal service review.

Regarding the unincorporated community of Sunset Beach, Ms. Emery stated that staff believes Huntington Beach to be the most logical long-term service provider to the community and recommended amending the city’s sphere of influence to include the area. She said that eventual annexation of the community to the City of Seal Beach is another viable alternative but added that Seal Beach has no interest in annexing and extending services to the

territory. She indicated that the residents of Sunset Beach are vehemently opposed to being included in any city's sphere of influence.

At the conclusion of her presentation, Ms. Emery summarized staff's sphere findings and recommended modifications to the City of Huntington Beach's sphere of influence, which included the inclusion of Sunset Beach in the city's sphere. She also personally thanked Paul Emery of Huntington Beach and city staff for their assistance during the MSR/SOI process.

Responding to a question posed by **Commissioner Schafer**, Ms. Emery said that approximately 1200 people reside in Sunset Beach.

Commissioner McCune inquired about the unincorporated island located between the Cities of Huntington Beach and Westminster. Ms. Emery responded that the island is located entirely north of the 405 freeway and will be studied during the Westminster/Midway City municipal service review. She added that neither city had expressed any interest in annexing the island.

Chair Bouer asked if the City of Huntington Beach had extended water service to Bolsa Chica. Ms. Emery stated that the out-of-area agreement was not yet finalized and added that staff would bring an update to the Commission once the agreement was in place.

Commissioner Campbell left the Commission meeting.

Chair Bouer opened the public hearing for agenda items "7e" and "8a," the Sphere of Influence Review for the Sunset Beach Sanitary District (SOI 05-35) and the Municipal Service Review and Sphere of Influence Update for the City of Huntington Beach (MSR 06-01 & SOI 06-02).

John Wood, President of the Sunset Beach Sanitary District (SBSD), requested that the Commission assign a coterminous, rather than transitional, sphere of influence for at least the next five years. He cited various capital improvement projects the district wished to complete for its ratepayers. He expressed concern that the City of Huntington Beach would not give those projects the attention and resources required. He maintained that SBSD provides a higher level of service for less cost than the City of Huntington Beach and stated that the district's low overhead enables the taxpayers' money to be allocated directly to the services provided.

Greg Griffin, Director of the Sunset Beach Sanitary District, referred to the financial handout he provided to the Commission. He stated that the district has no administrative overhead and low operational costs, because the district has volunteer directors and does not maintain an office. He indicated that the

district's staff receives reasonable salaries and no pensions. He opined that SBSB is run more efficiently than larger municipal service providers and provides a higher level of service. He submitted a petition signed by more than 400 of the district's ratepayers in support of a coterminous sphere of influence.

Executive Officer Crosthwaite said that staff disputed the figures submitted by the district.

Pat Thies, President of the Sunset Beach Community Association, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence and granting SBSB a coterminous sphere of influence. She said that the City of Huntington Beach is too commercial and growth-oriented for the Sunset Beach residents' tastes.

Mike Van Voorhis, a 34-year resident of Sunset Beach, spoke in support of granting SBSB a coterminous sphere of influence. He said that the spirit of volunteerism employed by the district exemplifies how good government should work.

Lyman Lokken, a resident of Sunset Beach, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence and granting SBSB a coterminous sphere of influence. He spoke to the different cultures between Sunset Beach and the City of Huntington Beach and expressed fears that the inclusion of Sunset Beach in the city's sphere was a slippery slope towards annexation. He praised SBSB's project to reline the sewer lines. He also indicated that Sunset Beach residents are investigating means to form a community services district.

Rob Argetsinger, a resident of Sunset Beach, spoke in support of granting SBSB a coterminous sphere of influence. He praised the district's efficient and cost effective operations.

Gretchen Hoad, a resident of Sunset Beach and member of the stakeholder working group for the area's municipal service review, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence and granting SBSB a coterminous sphere of influence. She commented on the Sunset Beach residents' vehement opposition to being included in the City of Huntington Beach's sphere of influence and referenced the many letters sent to the Commission by community residents. She indicated that the residents fear their community will be annexed to the city under the legislative provisions for unincorporated islands, which does not allow residents to protest. She described Sunset Beach as a tight-knit, civic-

minded community with a steadfast interest in controlling its own destiny. She also cited the City of Huntington Beach's financial woes.

Patricia Kennedy, a Sunset Beach resident and representative of the Sunset Beach Local Coastal Program, read the letter submitted to the Commission from the Local Coastal Planning Program Board into the record. She noted in particular the differing coastal regulations in Sunset Beach versus the City of Huntington Beach.

Laurie Krein, a resident of Sunset Beach, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence, stating that the unique nature the of community would be ruined if Sunset Beach were annexed to Huntington Beach. She opined that the formation of a community services district would alleviate the community's burden on the County for services.

Mark Montgomery, a resident of Sunset Beach, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence and granting SBSD a coterminous sphere of influence. He stated that he likes knowing exactly where and how his tax dollars are being spent.

Bill Parker, a resident of Sunset Beach, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence and granting SBSD a coterminous sphere of influence. He quoted the LAFCO mission and asked the Commission to leave the community and its sanitary district alone.

Tom Gregory, a resident of Sunset Beach, echoed Mr. Parker's comments.

Diana Dodson, a resident of Sunset Beach, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence and granting SBSD a coterminous sphere of influence. She stated that the daytime scheduling of the Commission meeting made it difficult for many residents to attend the LAFCO public hearing. She cited the number of residents in the audience as an indication of the residents' fervent opposition to being included in the City of Huntington Beach's sphere. She further stated that the sanitary district does an exemplary job.

Graham Hoad, a 30-year resident of Sunset Beach, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence and granting SBSD a coterminous sphere of influence. He opined that annexation of Sunset Beach to the City of Huntington Beach would destroy the uniqueness of the community that has developed over many generations.

Bill Sebring, a Sunset Beach Community Association board member and 30-year resident, spoke in support of excluding Sunset Beach from the City of Huntington Beach's sphere of influence and granting SBSD a coterminous sphere of influence. He commended the Commission for its hard work and diligence. Citing the number of Sunset Beach residents in the audience, he said that, proportionally, the City of Huntington Beach would have to be represented by 7,000 people at the Commission meeting.

Chair Bouer closed the public hearing on items "7e" and "8a."

Commissioner Silva expressed his respect for Executive Officer Crosthwaite and her staff. He said that, while he understood staff's recommendations given LAFCO's charge, his opinion differed. He noted his high esteem for the Sunset Beach Sanitary District's board and reiterated the economies of scale argument. He said that he would like to see Sunset Beach remain a unique and independent community and further noted that the City of Huntington Beach has never expressed any interest in annexing the community or including it in the city's sphere.

Commissioner S. Wilson mentioned that she'd had the opportunity to visit Sunset Beach and agreed with the residents as to the community's unique and quaint nature.

Commissioner McCune stated that, while she understands Sunset Beach's distinctiveness and the residents' passion for their community, LAFCO's charge is to examine long-term service provision and make rational determinations. She stated that annexation to the city was not under consideration, just the city's sphere of influence amendment, and reminded the audience that the County has announced that it cannot continue providing municipal-level services to the unincorporated areas. She urged her fellow commissioners to consider LAFCO's mandates and support staff's recommendations.

Commissioner Schafer referenced comments made that indicated Sunset Beach residents did not receive adequate notice of the Commission's public hearing. Executive Officer Crosthwaite responded that staff had been working on the service review for the better part of three years. She added that, in addition to the legal noticing, staff's recommendations had been disclosed and discussed at two public meetings that involved representatives of the community.

Commissioner Herzog echoed **Commissioner McCune's** comments about logical service provision and LAFCO's mandates. He explained to the audience that a transitional sphere did not signify that the Sunset Beach

Sanitary is doing a poor job; it was merely meant to encourage discussion among the agencies about long-term future service provision without any foregone conclusions about what the ultimate decision will be. He also assured that a transitional sphere would not effect the district's day-to-day operations.

Commissioner Marshall voiced her support of **Commissioner Herzog's** point of view. She explained that spheres of influence are future-oriented planning tools. She stated that as an alternate commissioner, like **Commissioner McCune**, she did not have a vote but encouraged her fellow commissioners to do adopt a transitional sphere of influence for the Sunset Beach Sanitary District.

Commissioner Withers called the question.

MOTION: **Revise the draft resolution to reflect a “coterminous” rather than “transitional” sphere of influence for the Sunset Beach Sanitary District; adopt the remainder of staff recommendations (James Silva)**

SECOND: **Susan Wilson**

FOR: **Robert Bouer, Arlene Schafer, James Silva, Susan Wilson, John Withers**

AGAINST: **Peter Herzog**

ABSTAIN: **None**

MOTION PASSED

Chair Bouer asked for a motion on item “8a,” the Municipal Service Review and Sphere of Influence Update for the City of Huntington Beach (MSR 06-01 & SOI 06-02).

Commissioner Silva said that, as a long-time resident of Huntington Beach and former city councilman, he had never heard the city express an interest in including Sunset Beach in its sphere. He made a motion to revise the draft resolution, excluding the unincorporated community of Sunset Beach from the City of Huntington Beach's sphere of influence, and adopt the remainder of staff recommendations. **Commissioner Schafer** seconded the motion.

Commissioner Herzog clarified **Commissioner Silva's** motion. He expressed his disappointment in the motion, stating that it goes against State statute and County policy. He again explained the purpose of a sphere of influence. He highlighted Corona del Mar as a unique community that, though annex to Newport Beach, has maintained its distinct identity. He voiced his frustration at the County's inconsistency—publicly stating it wants to discontinue municipal service provision but continuing to approve projects.

He also reminded his fellow commissioners that spheres are revisited every five years and can be changed.

Commissioner Marshall left the Commission meeting.

Chair Bouer asked for a roll call vote.

MOTION: **Revise the draft resolution, excluding the unincorporated community of Sunset Beach from the City of Huntington Beach's sphere of influence; adopt the remainder of staff recommendations (James Silva)**
SECOND: **Arlene Schafer**
FOR: **Robert Bouer, Arlene Schafer, James Silva, John Withers**
AGAINST: **Peter Herzog, Susan Wilson**
ABSTAIN: **None**
MOTION PASSED

9. COMMISSION DISCUSSION

- a.) Six-Month Status Update on Special Study Areas
- b.) Status Update re Commissioners' Terms of Office

9a. Six-Month Status Update on Special Study Areas

Project Manager Koeppen presented an update on the two special study areas designated from the Orange/Villa Park/Orange SOI municipal service review: unincorporated areas and open space. Regarding open space, she indicated that the City of Orange proposes to delay discussions until it completes its General Plan update at the end of the summer. Regarding the unincorporated areas, which include El Modena, Orange Park Acres, and the portion of North Tustin currently within the City of Orange's sphere of influence, she stated that the city had not completed any substantive action to date. She indicated that she would provide the next update on the special study areas to the Commission in September 2006.

9b. Status Update re Commissioners' Terms of Office

Executive Officer Crosthwaite noted that four commissioners' terms of office would expire on June 30, 2006: **Commissioners Herzog, C. Wilson, S. Wilson, and Withers**. She stated that staff would notify and work with the Orange County Division of the League of Cities and the Independent Special Districts of Orange County (ISDOC) to schedule the required elections for the

city and special district member seats. She then asked for the Commission's guidance on the public member recruitment efforts.

Commissioner Herzog recommended that, in the interest of transparency, staff draft a press release regarding the public member vacancy. The remainder of the Commission concurred.

10. COMMISSIONER COMMENTS

Chair Bouer opened the floor for commissioner comments.

Commissioner S. Wilson noted that she had lost her watch in the parking lot the previous afternoon and was pleasantly surprised that someone had found it and turned it in to the Sheriff's station in the Hall of Administration.

Commissioner Herzog expressed his disappointment in the outcome of public hearing items "7e" and "8a." He stated that, while community residents will always be emotional, it is the Commission's charge to remain rational and focused on long-term service provision. He expressed his concern that the County will one day have permanent unincorporated areas, for which it will be responsible for providing municipal-level services.

Commissioner Withers objected to **Commissioner Herzog's** comments as a point of order. **Commissioner Herzog** defended his comments, saying they were not specifically about the public hearings but rather a larger philosophical commentary on the Commission's charge and the purpose of spheres of influence using today's public hearing items as an example.

Commissioner McCune concurred, indicating that she was similarly frustrated by the Commission's decisions. She said that LAFCOs are supposed to be impartial and objective when determining spheres of influence and rendering other decisions. She also stated that the three-minute speaker limit should be strictly adhered to.

Commissioner S. Wilson expressed her agreement with **Commissioner McCune's** comments about impartiality in decision making.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

a.) Form 700 Submissions

11a. Form 700 Submissions

Executive Officer Crosthwaite reminded the Commission to submit their Form 700s by the April 1 deadline.

12. CLOSED SESSION

Public Employee Performance Evaluation

Title: Executive Officer

Conference with Labor Negotiators

Agency designated representatives: Chair Bouer and Commissioners

Unrepresented Employee: Executive Officer

Chair Bouer adjourned the Commission meeting for closed session at 12:07 p.m. He reconvened the meeting at 12:19 p.m. and announced the Commission's adoption of the personnel committee's recommendations related to Executive Officer Crosthwaite's performance evaluation.

MOTION: **Adopt the personnel committee's recommendations related to the Executive Officer's performance evaluation and adopt resolution 06-10, approving the first amended Memorandum of Agreement for the position of LAFCO Executive Officer (Peter Herzog)**

SECOND: **James Silva**

FOR: **Robert Bouer, Peter Herzog, Arlene Schafer, James Silva, Susan Wilson, John Withers**

AGAINST: **None**

ABSTAIN: **None**

MOTION PASSED

13. ADJOURNMENT

Chair Bouer adjourned the meeting at 12:20 p.m.

* * * * *

JOYCE CROSTHWAITE

Executive Officer

Orange County Local Agency Formation Commission

By: _____

Danielle M. Ball

Communications Analyst/Commission Clerk



April 12, 2006

CHAIR
ROBERT BOUER
Councilmember
City of Laguna Woods

VICE CHAIR
BILL CAMPBELL
Supervisor
Third District

PETER HERZOG
Councilmember
City of Lake Forest

ARLENE SCHAFER
Director
Costa Mesa
Sanitary District

SUSAN WILSON
Representative of
General Public

TOM WILSON
Supervisor
Fifth District

JOHN WITHERS
Director
Irvine Ranch Water District

ALTERNATE
PATSY MARSHALL
Councilmember
City of Buena Park

ALTERNATE
RHONDA MCCUNE
Representative of
General Public

ALTERNATE
JAMES W. SILVA
Supervisor
Second District

ALTERNATE
CHARLEY WILSON
Director
Santa Margarita
Water District

JOYCE CROSTHWAITE
Executive Officer

TO: Local Agency Formation Commission

FROM: Executive Officer
Project Manager

SUBJECT: Proposed "Irvine Ranch Water District and Santiago County Water District Reorganization" (RO 06-04)

In January, 2006, the Boards of Directors for the Irvine Ranch Water District and Santiago County Water District adopted substantially similar resolutions requesting that LAFCO consolidate the two districts pursuant to California Government Code Section 56853(a) and designate the Irvine Ranch Water District as the single successor agency.

BACKGROUND

The application submitted by the Irvine Ranch Water District (IRWD) and the Santiago County Water District (SCWD) represents a collaborative effort that evolved in part from stakeholder discussions during the Orange/Villa Park MSR in 2003. The MSR stakeholder group included both IRWD and SCWD, the Cities of Orange and Villa Park as well as representatives from other public agencies and unincorporated communities in the surrounding area.

The Commission will recall that the Orange/Villa Park MSR was, by request of the City of Orange, one of the prototype MSRs. The City was preparing to address future growth and service delivery issues attributed in part to the Irvine Company's desire to develop its East Orange planned communities in the eastern portion of the city's sphere. When the MSR began, one annexation proposal was pending before the Commission and another was initiated a year later.

A plan for future service delivery to the proposed development areas was also a key issue for LAFCO as staff prepared the annexation proposals for the Commission's consideration. A portion of the proposed development area was split between the IRWD and SCWD water district service territories and both districts had expressed interest in serving it. The City of Orange had stated its preference that the eastern development areas be

served by a single provider for water and sewer. To address these issues, a study was conducted concurrent with the MSR to assess the most efficient and cost effective water and sewer provider for the proposed East Orange development areas. The East Orange Utility Study analyzed master plans for both IRWD and SCWD and concluded that the IRWD would be the most efficient and cost effective provider for water and sewer service to the future development areas.

Based on the utility study's conclusions, SCWD began its own process to assess future service delivery and governance options. The process included forming a President's Advisory Committee consisting of district residents to provide input to the Board during that process. All options studied by the SCWD Board/advisory committee assumed a large portion of the district would be detached and annexed to IRWD as the designated water and sewer provider for the future East Orange development areas. Options considered included:

- SCWD remain a stand-alone district serving existing customers
- Consolidate with Irvine Ranch Water District
- Consolidate with Trabuco Canyon Water District

SCWD customers identified consolidation with IRWD as the most beneficial option to pursue. Consequently, the subject consolidation was negotiated. The application includes a *Justification and Plan for Service* (Attachment A), which provides significant detail concerning the current operation of these districts and the benefits of consolidation. Below is a brief summary of the *Justification*.

OVERVIEW of EXISTING DISTRICTS

Irvine Ranch Water District

Formed in 1961 under the California Water District Act, IRWD currently provides water, sewer and reclaimed water service to an 85,019-acre service territory that includes the City of Irvine and portions of the Cities of Lake Forest, Orange, Costa Mesa, Newport Beach, and Tustin, as well as several unincorporated areas. The District serves an approximate population of 316,000 residents. IRWD imports approximately 35% of its water supply and draws the remaining supply (65%) from its extensive well system to serve an approximate population of 316,000. The District maintains about 600 miles of sewer pipeline and treats over 23 million gallons of sewage per day between its Michelson and Los Alisos treatment plants. (See Exhibit 1, IRWD Location Map.)

Santiago County Water District

Formed in 1963 under the County Water District Law, the District service territory includes approximately 29,450 acres, 13,500 of which is land owned by the Irvine Company and slated for development. SCWD maintains approximately 740 retail

water connections serving a population of approximately 2,500 customers located in the Modjeska, Silverado, Williams, Baker and Ladd canyon areas of unincorporated northeast Orange County. SCWD both imports water (65%) and draws from surface water (35%). The district's current population is 100% septic system users. (See Exhibit 2, SCWD Location Map.)

DISCUSSION

For proceedings where two special districts have proposed a change of organization pursuant to Government Code Section 56853 (a), the role of the Commission is to approve or conditionally approve the proposal and order the consolidation without election. In support of the proposal, the Districts are required to submit a petition that includes a designated successor agency and a plan for services for the newly consolidated district. As mentioned, a copy of the *Justification and Plan for Service* is attached to this report as Attachment A. Also included for the Commission's review, are the resolutions adopted by the two districts and the Consolidation Agreement dictating the terms and conditions approved by both district Boards. (See Attachment B.)

Collaborative Effort

The subject proposal represents a collaborative effort between the two districts. The process leading up to the presentation of the application to LAFCO included multiple discussion sessions between staffs of the districts and an Ad Hoc Committee comprised of members of the respective districts Boards of Directors. Improved service and cost benefits for the rate payers of the SCWD and more efficient water, sewer and reclaimed water service for the consolidated district overall spurred the effort that culminated in a total consolidation of the two districts.

Consolidated IRWD

The current five-member IRWD Board of Directors will govern the successor agency. As permitted under the California Water District Act, the current five-member SCWD Board of Directors will become a management committee of the consolidated district. This management committee will serve for three-years to aid in the transition and integration of the former SCWD service territory. After three years, the committee may recommend a community liaison to continue working with the IRWD Board. (See Exhibit 4, consolidated IRWD map.) Some of the benefits of consolidation identified by IRWD and SCWD include:

- Reduced operating costs and customer rates for water access and delivery
- More diverse and reliable water supply to SCWD customers
- Improved economies of scale and reduced administrative costs
- Enhanced emergency preparedness
- Revenue and cost neutrality to existing IRWD customers

There are no anticipated staff reductions as a result of the consolidation. There are four full-time and one part-time SCWD employees who will be integrated into the consolidated IRWD at IRWD's current compensation/benefit levels.

Existing SCWD ratepayers will realize an immediate 20% reduction in water rates due to the reduced costs to supply water to the area. Additional rate reductions of up to 60% of current SCWD rates are anticipated for the SCWD territory ratepayers following an approximate five to seven year transition period while costs to upgrade the SCWD area are repaid.

Equitable Distribution of Consolidation Costs

The terms and conditions of the consolidation include an acquisition balance model that allows the existing SCWD ratepayers to gain an immediate 20% reduction in water rates that will carry forward until the acquisition balance is retired. Existing IRWD customers will not be burdened with the cost impacts with application of this model. Once the acquisition balance is retired, ratepayers will assimilate into the standard IRWD rate schedule, seeing an approximate 60% reduction in rates as compared to former SCWD water rates.

Support Canyon Communities

From the beginning of discussions, the consolidation planning effort recognized the importance SCWD ratepayers place on preserving the existing land use and rural lifestyle in the canyon areas. Terms of the agreement specify that the consolidated IRWD will support local land use decisions including the Silverado-Modjeska Specific Plan as applicable in the former SCWD service area.

Form Improvement Districts/Planning Area

The consolidation agreement provides for the transition of SCWD Improvement District No. 1 (SCWD ID-1) into two new improvement districts under the consolidated IRWD. In December 2005, a 105-acre portion of SCWD ID-1 was detached and new Improvement Districts, ID153 and 253 were formed as a condition of the East Orange Planning Area 1 Reorganization.

As a condition of this consolidation, the new improvement districts, IRWD ID 153 (water)/253 (sewer) will be established to include the entire SCWD ID-1, excluding the existing residential areas. The improvement district will be formed to provide for the cost of financing new infrastructure and facilities for the proposed East Lake Village portion of the Irvine Company's East Orange development plan. The agreement also establishes Planning Area 155 that includes the existing canyon area residents, in order to pay-down the acquisition balance and rate differential. SCWD ID-2, which was

established to serve the Silverado-Specific Plan area, will become IRWD ID No. 154. (See Exhibits 3a & 3b for pre and post-consolidation ID maps.)

Orange County Sanitation District

Staff is recommending the Commission approve an amendment to the Orange County Sanitation District sphere of influence as a concurrent action to this consolidation. The proposed sphere amendment would include the entire SCWD ID-1 (less excluded areas). (See Exhibit 5.) The amendment is recommended in anticipation of the District's request to annex the balance of SCWD ID 1 (IRWD ID 253) to accommodate the sewage flow demands of the future development per the OCSD/IRWD sewage flow agreement. The flow agreement allows for wastewater from the area to be treated using IRWD's capacity in OCSD's facilities. An annexation application is currently being prepared; staff anticipates bringing it to the Commission for consideration in May, 2006.

Staff Conclusions

The proposed terms and conditions submitted by IRWD and SCWD as part of the Consolidation Agreement conform to the intent of Government Code Sections 56700 and 56853. The Districts propose a consolidation that will benefit the ratepayers of both districts through better service provision and, in some cases, an immediate rate reduction. No modification of the language is recommended.

ENVIRONMENTAL REVIEW

IRWD as the lead agency found the project categorically exempt from the California Environmental Quality Act (CEQA) as a project consisting of changes in organization of local agencies not changing the area in which existing powers are exercised, under the CEQA Code of Regulations, Title 14, Article 19, Section 15320 (b). (See Attachment C.)

PROPERTY TAX

Pursuant to Revenue and Taxation Code Section 99(b)(5), the Orange County Board of Supervisors on behalf of the two districts adopted a property tax exchange resolution on March 28, 2006. The terms of the exchange are that IRWD and SCWD have agreed that upon consolidation any property tax revenues that formerly have been allocated to the SCWD shall, in the future, be transferred and allocated to the IRWD.

RECOMMENDED ACTIONS

It is recommended for the Commission to take the following actions:

1. Certify that it has reviewed and considered the information contained in the Notice of Exemption prepared by the applicants (Attachment C).
2. Pursuant to Government Code §56853, adopt the resolution (Attachment F) approving the Consolidation of the Irvine Ranch Water District and Santiago

County Water District and designating the consolidated IRWD as the successor agency per the Statement of Boundary (Attachment G) and authorize the Executive Officer to conduct protest proceedings pursuant to Government Code §57081. The approval is subject to the following terms and conditions:

- a) The applicant agrees to pay for all County Recorder and State Board of Equalization fees.
 - b) The applicant agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers and employees from any claim, action or proceeding against LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of LAFCO concerning this proposal or any action relating to or arising out of such approval.
 - c) The provisions of the "Consolidation Agreement" entered into by and between the Irvine Ranch Water District and Santiago County Water District on January 17, 2006. (Attachment B.)
3. Amend the sphere of influence for the Irvine Ranch Water District to include the service territory of the Santiago County Water District as the consolidated district sphere of influence and adopt the Statements of Determinations. (Attachment D.)
 4. Amend the sphere of influence for the Orange County Sanitation District to include the entire SCWD ID No. 1 (IRWD ID No. 253) (less excluded areas) and adopt the Statements of Determinations. (Attachment E.)
 5. Set a 21-day protest period for the reorganization.
 6. The effective date of the consolidation shall be July 1, 2006.

Respectfully submitted,

JOYCE CROSTHWAITE

KIM KOEPPEN

Attachments:

- A. Justification of Proposed Consolidation and Plan for Services
- B. Consolidation Agreement & Initiating Resolutions

- C. Notice of Exemption
- D. Statement of Determinations for the consolidated IRWD District SOI
- E. Statement of Determinations for the amended OCSD SOI
- F. LAFCO Draft Resolution
- G. Statement of Boundary

Exhibits:

- 1. IRWD location map
- 2. SCWD location map
- 3. Improvement District maps
 - a. Pre-consolidation IDs map
 - b. Post-consolidation IDs map
- 4. Consolidated IRWD map
- 5. Proposed OCSD sphere map

SCWD-IRWD Consolidation

Additional Project Application Information Justification and Plan of Service

Background

The application submitted by the Irvine Ranch Water District (IRWD) and the Santiago County Water District (SCWD) proposes to reorganize the two districts into one consolidated district, IRWD. The proposed change of organization is in great measure attributable to the future development in East Orange that was recently approved by the City of Orange. The question of how water and sewer service, and the infrastructure needed to support it, could be provided most reliably and cost-effectively has ultimately lead to this consolidation proposal.

The East Orange Municipal Service Review (MSR), initiated by Orange County LAFCO in early 2005 as one of two prototype MSRs, was intended in large part to solicit input and ultimately provide guidance as to how the future East Orange development might best proceed and how the demands of that development might best be met. The East Orange MSR process involved representatives from the County of Orange, the City of Orange, IRWD, and SCWD as well as other government entities, volunteer groups, and members of the public, who together formed the MSR Working Group. Over approximately one year, the Working Group provided critical input to the completion of the East Orange MSR through ten half day sessions lead by LAFCO staff and facilitated by an outside consultant.

Among the more important issues taken up by the Working Group was the provision of water and sewer service to the proposed development of approximately 2,500 new homes in what is known as the East Lake Village Area. This specifically identified key issue was addressed within the overall MSR process through the preparation of the East Orange Utility Study. The Utility Study was completed by an independent engineering firm and its fundamental purpose was to identify the best provider of water and sewer service to meet the demands of the proposed development. The Utility Study was completed and received by LAFCO staff and its findings were included in the final East Orange MSR Report.

For a number of significant reasons, the Utility Study identified IRWD as the best agency to provide water and sewer service in the East Lake Village Area. This recommendation was acted upon in both the East Orange MSR and in LAFCO staff's proposed sphere of influence updates. The practical outcome of the MSR process and the SOI updates was to detach the development area in East Orange from SCWD and attach it to IRWD so that future water and sewer demands would be provided by IRWD.

In consequence to IRWD's designation as the future water and sewer service provider in East Orange, SCWD initiated a process to evaluate their future options as a district. SCWD's Board of Directors formed a special subcommittee to take up this issue and convened a President's Advisory Board consisting of approximately forty SCWD customers.

As this evaluation proceeded, SCWD and the President's Advisory Board identified three alternatives for a future SCWD: to remain as a stand-alone district, to consolidate with Trabuco Canyon Water District, and to consolidate with IRWD. Each of these options were evaluated and compared according to criteria established by the President's Board. Cost of operations, reliability, and local control were determined to be the three most important criteria identified by the members of the President's Advisory Board.

The President's Board held three public evening forums to solicit input from and provide information to SCWD rate payers. In the last of these public forums, presentations were made by LAFCO staff, SCWD staff, and IRWD. An extensive question and answer period followed the presentations. The President's Board then requested feedback as to which option should be pursued. By an overwhelming margin, consolidation with IRWD was selected as the most sensible course for SCWD to follow. The SCWD Board then directed the subcommittee to complete negotiations with IRWD that would establish the terms and conditions through which an IRWD/SCWD consolidation might occur.

The Consolidation Agreement (Attached) was carefully negotiated and ultimately executed by both SCWD and IRWD. It defines the terms and conditions through which the two districts are to be consolidated, and incorporates aspects of previous successful consolidations involving IRWD. There are six key elements established in the Agreement that are the cornerstones of the consolidation: (1) recognition of equity; (2) rates and charges; (3) governance; (4) integration of workforce; (5) systems integration and level of service; and, (6) community issues and involvement. These issues are described more fully in the Plan of Service section of this application.

Justification for the Proposed Action

Consolidation of IRWD and SCWD will reduce operating costs and allow for a significant reduction in current SCWD rates and charges without negative impact to current IRWD customers. It will also provide a more diverse and reliable water supply to the SCWD service area, greater operational flexibility and reliability, and enhanced emergency preparedness. Participation by SCWD's current Board in a post-consolidation Management Advisory Committee will work to ensure a smooth transition and continue local control.

A Consolidation Agreement was signed and executed by the IRWD Board of Directors and the SCWD Board of Directors respectively, which established the terms and conditions for the consolidation of the two agencies. The Consolidation Agreement stipulates the disposition of facilities and funds, the establishment of rates and charges, the transition of a governance structure, the impact on affected personnel and the transition of other operational policies and procedures.

As a condition of the Consolidation Agreement, the IRWD and the SCWD are to process an application through the Local Agency Formation Commission ("LAFCO"), to consolidate the former SCWD territory within the IRWD's service boundaries. All the above procedural steps adhere to the applicable government code sections.

The IRWD and SCWD Boards of Directors believe this proposal will produce efficiencies in service delivery and would be in the best interest of the inhabitants and ratepayers of each District.

The objective is that this consolidation be accomplished in a manner that will maximize economic and operational efficiencies to the extent possible while maintaining equity to the ratepayers and property owners of each District and avoiding involuntary elimination of staff positions.

In anticipation of new development in the East Orange area SCWD established its Improvement District #1. As part of the Consolidation this Improvement District will be renamed and become part of IRWD's recently established ID 153 and ID 253; ID 153 is intended to be the water improvement district and ID 253 the sewer improvement district. Because this area will one day require sewer service, and because IRWD provides sewer service using both its own Michelson Water Reclamation Plant and its capacity in the regional treatment facilities of the Orange County Sanitation District, an application will be submitted to LAFCO under separate cover requesting annexation to Orange County Sanitation District of which IRWD is a member agency as Revenue Area 14.

Profile of Irvine Ranch Water District

IRWD was formed in 1961 as a special district under the California Water District Act and covers more than 133 square miles. IRWD serves a population of 316,000 in the City of Irvine: portions of the cities of Lake Forest, Newport Beach, Costa Mesa, Orange, Santa Ana and Tustin; and parts of unincorporated Orange County. As a special district, IRWD provides potable water, sewage collection and treatment, and production of tertiary-treated water with the goals of providing the maximum efficiency and local responsiveness to its customers. In 2002-2003, IRWD delivered approximately 52,926 acre-feet of treated water, 9,213 acre-feet of untreated water and 23,383 acre-feet of recycled water. The District uses a total of 85,522 acre-feet of water annually.

In the past decade, IRWD has successfully consolidated with the Santa Ana Heights Mutual Water Company, the Carpenter Irrigation District, and the Los Alisos Water District. Each of these consolidations was initiated by the districts to be consolidated, and each has proven highly successful. The proposed consolidation of SCWD and IRWD will benefit from these prior consolidations by utilizing concepts and strategies that have worked effectively to provide and maintain equity, reduce rates, and improve service operations.

Profile of Santiago County Water District

SCWD was established in 1962 and is located in northeast Orange County, east of the cities of Orange and Tustin. SCWD cover an area of 29,450 acres with land ranging from foothills around Irvine Lake to mountainous canyons in the Cleveland National Forest. Presently, SCWD's single mission is to provide potable water to its customers.

SCWD has a current population of approximately 2,500 persons. The majority of the District's population is concentrated in Silverado, Williams, and Modjeska Canyons. Currently, SCWD has 740 domestic water connections delivering up to 500 acre-feet of water annually.

Within SCWD there are two Improvement Districts (ID-1 and ID-2) that were formed in 1978 for the purpose of authorizing general obligation bonds.

Plan for Providing Services

The attached Consolidation Agreement provides a detailed explanation of how the consolidation will occur. In summary, the Consolidation includes six key components that will ensure a fair, efficient and cost effective transfer of SCWD's responsibilities and liabilities to the Consolidated District. They are:

1. **Recognition of Equity**

The Districts have developed two distinct mechanisms to transition the agencies into financial parity. The Agreement acknowledges each agency's assets and investments and uses an improvement district concept for future new development and an "Acquisition Balance" concept to resolve equity gaps between existing customers of the two agencies.

As discussed above, the proposed future development area currently within SCWD and known as Improvement District #1 will be annexed to IRWD's Improvement Districts 153 and 253 (presently comprised of the 105 acre portion of ID No. 1's territory that was previously reorganized into IRWD) at the effective date of consolidation; ID 153 is intended to be the water improvement district and ID 253 the sewer improvement district. This structure not only mirrors the development approach IRWD has

successfully used for thirty years within its current service area, it also insulates the existing canyon area customers from bearing the burden of future development costs from which they will receive no benefit. The existing general obligation debt authority approved in SCWD's ID #1 will be allocated to IRWD's ID 153/253 and any debt issued for the construction of water and sewer facilities within those improvement districts will be funded through an approximate 50/50 sharing between the developer (through connection fees) and the future homeowner (through property taxes).

The Acquisition Balance concept allows existing SCWD ratepayers to buy into existing IRWD water infrastructure in order that they can participate in IRWD's water rate structure. The Acquisition Balance accumulates buy-in costs, subtracts out credits SCWD brings to the consolidation, and produces a net buy-in amount. That amount is then drawn down by the difference in revenues between the reduced SCWD rates and the standard IRWD rates. It is estimated that the Acquisition Balance will be retired in approximately five to seven years.

2. Resulting Rates and Charges

During the funding of the Acquisition Balance period, in fact from day one of the consolidation, SCWD rates for existing customers will be reduced by 20% and full services will be received immediately. After the Acquisition Balance is funded and parity is achieved, SCWD rates will be equal to IRWD's which will be approximately 60% lower than SCWD's pre-consolidation rates. This results in a projected 25 years savings of \$7.6 million in today's dollars.

The rate structure for the future development area (ID 123/253) will be established based on IRWD's current rates for water and sewer service in the greater IRWD service area. Property taxes paid by future homeowners in ID 153/253 provide the same equity contribution to capital infrastructure as does the Acquisition Balance for current SCWD ratepayers, therefore ID 153/253 does not have an Acquisition Balance nor does that area participate in funding the Acquisition Balance established for the existing SCWD customers.

3. Governance and Local Representation

The Agreement provides for a Management Advisory Committee to be formed from the current SCWD Board of Directors. The Management Advisory Committee will remain as a subcommittee of the consolidated district's Board of Directors for three years. The Committee would meet monthly to address issues pertaining to the former SCWD area and will make recommendations to consolidated district Board. After three years the Committee may recommend a community liaison to continue to work with the IRWD Board.

4. Integration of Workforce

There will be no staff reductions as a result of the consolidation. All SCWD employees will be integrated into the IRWD workforce and into IRWD's current salary and benefits packages.

5. System Integration and Levels of Service

SCWD customers will be fully integrated into IRWD and receive all services and operation benefits as received by customers throughout IRWD. They will have access to additional water supply reliability and redundancy, rapid and substantial emergency response capabilities, extensive equipment and materials diverse, multi-disciplined staff with depth of experience preventative maintenance programs and enhanced customer services.

6. Community Issues and Involvement

IRWD recognizes the community issues that are important to the SCWD residents. IRWD is not a land planning agency and supports the Silverado-Modjeska Specific Plan which has been approved and adopted by the responsible land planning agencies. IRWD also supports the continued use of septic systems insofar as they remain approved by the responsible regulatory agencies.

Upon consolidation, the consolidated district will continue to operate the existing SCWD headquarters site. It will remain open for a minimum of one year and be available for use for non-profit community meetings at no cost.

IRWD has a history of demonstrating its commitment to the environment through partnership with environmental groups, the promotion of water conservation programs and water reclamation and re-use. IRWD recognizes the unique character of the canyon area and looks forward to furthering its community involvement in the overall SCWD service area.

Terms and Conditions

The attached Consolidation Agreement includes all of the proposed terms and conditions for the Consolidation.

CONSOLIDATION AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2006, by and between SANTIAGO COUNTY WATER DISTRICT, a county water district formed and existing pursuant to Section 30000 *et seq.* of the California Water Code (“SCWD”) and IRVINE RANCH WATER DISTRICT, a California water district formed and existing pursuant to Section 34000 *et seq.* of the California Water Code (“IRWD”).

R E C I T A L S:

A. SCWD provides water service to the service area generally depicted on Exhibit “A,” which exhibit is attached hereto and incorporated herein by this reference.

B. IRWD provides water, sewer, reclaimed water and natural treatment system service to the service area generally depicted on Exhibit “B,” which exhibit is attached hereto and incorporated herein by this reference.

C. The Cortese-Knox-Hertzberg Local Government Reorganization Act, as amended effective January 1, 2005, permits consolidation of special districts not formed pursuant to the same principal act.

D. The respective governing boards of SCWD and IRWD have determined that a consolidation of SCWD and IRWD would produce efficiencies in service delivery and would be in the best interest of the inhabitants and ratepayers of each District.

E. It is the objective of the parties that consolidation of the Districts be accomplished in a manner that will maximize economic and operational efficiencies to the extent possible, while maintaining equity to the ratepayers and property owners of each District and avoiding involuntary elimination of staff positions.

F. It is the intent of the parties that the consolidated district will ultimately have a uniform rate structure. The former territories of IRWD and SCWD will be operated by the consolidated district for a transitional period as separate economic units to facilitate the satisfaction of equity considerations as described in this Agreement, with the objective that the transitional period be as short as possible.

G. The parties desire that the consolidation provide for a suitable governance structure, with adequate measures to assure continuity and transitional representation of the former SCWD service area.

H. SCWD and IRWD intend to submit substantially similar resolutions of application making proposals to the Local Agency Formation Commission of Orange County ("LAFCO") for a consolidation, in accordance with Government Code Section 56853.

I. SCWD and IRWD intend to request that July 1, 2006 be established as the effective date of the consolidation.

J. SCWD and IRWD desire to set forth the proposed terms and conditions of the consolidation intended to achieve the above-recited objectives.

A G R E E M E N T S:

Section 1. General. IRWD and SCWD shall make application to LAFCO for a consolidation of the two Districts, upon the terms and conditions constituting this Agreement. IRWD shall cause the preparation of a survey and legal description of the consolidated district meeting LAFCO's requirements and other applicable legal requirements. In accordance with Government Code Sections 56375(c), 56654(c) and 56700(b)(1), IRWD shall be designated as the consolidated successor district (the "Consolidated District"). The name of the Consolidated District shall be "Irvine Ranch Water District." The Consolidated District will be a California water district, and will operate under Water Code Section 34000 *et seq.*

Section 2. Funds and Facilities.

(a) IRWD Improvement Districts. The improvement districts of IRWD existing on the date of the consolidation shall become improvement districts of the Consolidated District.

(b) SCWD Improvement Districts. (1) The parties agree to request that LAFCO include in the terms and conditions of the consolidation such terms and conditions as are necessary to provide that all of the territory within Improvement District No. 1 of SCWD (as described in SCWD Resolution Nos. 78-5-2 and 78-5-6, each of which was adopted on May 2, 1978, inclusive of the territory included therein pursuant to SCWD Resolution No. 78-3-1, adopted on March 21, 1978), except for the area to be excluded therefrom as identified on Exhibit "D" referenced below in paragraph (c), shall be annexed to IRWD's Improvement District No. 153 and Improvement District No. 253, or in the alternative that Improvement District No. 153 and Improvement District No. 253 shall be formed as two separate and coterminous improvement districts of IRWD comprising the territory of SCWD's Improvement

District No. 1, except for the area to be excluded therefrom as identified on Exhibit “D”. The parties further agree to request that LAFCO include terms and conditions necessary to provide that upon the consolidation, SCWD Improvement District No. 1’s water bonds (authorized but unissued) shall become the bonds of the Consolidated District for Improvement District No. 153 (including the annexed territory and all territory within such improvement district prior to the consolidation), and SCWD Improvement District No. 1’s sewer bonds (authorized but unissued) shall become the bonds of the Consolidated District for Improvement District No. 253 (including the annexed territory and all territory within such improvement district prior to the consolidation). The Plan of Works of SCWD Improvement District No. 1 shall be the Plan of Works of Improvement District Nos. 153 (with respect to water works) and 253 (with respect to sewer works).

(2) Improvement District No. 2 of SCWD (as described in SCWD Resolution No. 78-5-10, adopted on May 2, 1978), except for the area to be excluded therefrom as identified on Exhibit “D,” shall be renamed “Improvement District No. 154” and shall become an improvement district of the Consolidated District upon the consolidation. Upon the consolidation, SCWD Improvement District No. 2’s bonds (authorized but unissued) shall become the bonds of the Consolidated District for Improvement District No. 154. The Plan of Works of SCWD Improvement District No. 2 shall be the Plan of Works of Improvement District No. 154. Improvement District No. 154 shall be deemed to be an improvement district formed under California Water Code Section 36410 *et seq.*

(c) Designation of Planning Area. The portion of SCWD not included within Improvement District Nos. 153 and 253 pursuant to paragraph (b)(1) above shall be designated by the Consolidated District as a planning area to be known as “Planning Area No. 155.” Planning Area 155 shall include the area within Improvement District No. 154. The existing Improvement District Nos. 1 and 2 of SCWD are shown on Exhibit “C,” and Improvement District Nos. 153, 253 and 154 and Planning Area No. 155 of the Consolidated District shall be as shown on Exhibit “D,” which exhibits are attached hereto and incorporated herein by this reference.

(d) Allocation of Facilities and Capacities. The facilities, capacities in facilities, and associated lands and rights-of-way constructed and acquired by SCWD with funds of Improvement District No. 1 or otherwise owned by SCWD for the benefit of Improvement District No.1 shall be allocated to Improvement District Nos. 153 and 253 upon the consolidation (with the allocation (water/sewer) between the two improvement districts to be determined by the Consolidated District). The facilities, capacities in facilities, and associated lands and rights-of-way constructed and acquired by SCWD with funds of Improvement District No. 2 or otherwise owned by SCWD for the benefit of Improvement District No. 2 shall be allocated to Improvement District No. 154 upon the consolidation. The remainder of the SCWD facilities, capacities, associated lands and rights-of-way, and the administrative facilities of SCWD shall be allocated to Planning Area No. 155. IRWD’s facilities, capacities in facilities, and associated lands and rights-of-way and other property shall remain allocated among IRWD’s existing improvement districts and planning areas existing prior to the consolidation. Future financial

participation by Improvement District Nos. 153, 253 and 154 and Planning Area No. 155 in the construction and acquisition of facilities and other property of the Consolidated District and the disposition of any existing facilities and property shall be at the discretion of the Consolidated District's board on the basis of benefit to be received, consistent with IRWD's capital funding policies and practices.

(e) Personal Property. Personal property, including vehicles, office furniture and equipment and documents, owned by SCWD and IRWD shall be the property of the Consolidated District and shall not be allocated to improvement districts. The Consolidated District may retain, sell or dispose of such property, at its discretion.

(f) Capital Funds. The Consolidated District shall establish capital funds for Improvement District Nos. 153, 253 and 154, to be funded, used and applied pursuant to policies established by the Consolidated District from time to time. Unrestricted funds (if any) held by SCWD Improvement District No. 1 at the date of consolidation shall be deposited to the Improvement District Nos. 153 and 253's capital funds as determined by the Consolidated District; unrestricted funds (if any) held by SCWD Improvement District No. 2 at the date of consolidation shall be deposited to the Improvement District No. 154 capital fund.

(g) Replacement Fund Buy-In. A portion of the connection or capacity charges imposed by the Consolidated District within Improvement District Nos. 153 and 253, to be determined from time to time consistent with the policies of the Consolidated District, shall be contributed to the water and sewer replacement funds of the Consolidated District. Planning Area 155 shall contribute to the water replacement fund of the Consolidated District pursuant to Section 3(i)(2) hereof.

(h) Other Funds. Subject to Section 3(j)(1), SCWD's remaining cash balances not otherwise allocated herein shall be combined with the operating funds of IRWD as the operating funds of the Consolidated District. The foregoing shall exclude any bond proceeds, debt service funds and other restricted funds of SCWD and IRWD, which shall remain restricted funds of the Consolidated District or improvement district or planning area, as applicable, and continue to be restricted to the previously designated purpose. Operations shall be consolidated through a combined operating budget. Segregation of operating funds shall not be required except as deemed necessary by the Consolidated District. An independent closing audit of IRWD's and SCWD's financial records shall be performed by the Consolidated District for each District's last fiscal year ended prior to the effective date of the consolidation.

(i) Contracts. Existing contracts of SCWD and IRWD shall be deemed transferred to and assumed by the Consolidated District upon the consolidation.

(j) Commingling. Funds or other assets or operational expenses may, at the discretion of the Consolidated District, be commingled for investment and operating purposes.

Section 3. Rates and Charges.

(a) General. Except as otherwise specifically provided herein, services shall be provided by the Consolidated District in accordance with IRWD's Rules and Regulations For Water, Sewer, Recycled Water, and Natural Treatment System Service ("Rules and Regulations"). The special provisions for rates and charges governed by this Agreement shall be considered a special contract under the Rules and Regulations.

(b) Commodity Charge Reduction. Upon consolidation, the water commodity charges within Planning Area No. 155 will be reduced to 80% of the respective SCWD water commodity charges (including any elevation charge component of such charges) for all classes of service and meter size that were in effect on the date of consolidation. Until the Acquisition Balance (defined below) equals zero, whenever the Consolidated District's standard commodity charge is changed, each commodity charge within Planning Area No. 155 will be changed by the amount necessary to maintain constant the dollar amounts of the differences (that resulted from the initial percentage reduction) between each such commodity charge and the Consolidated District's standard commodity charge. If the Metropolitan Water District of Southern California or any intermediate wholesaler modifies its rate structure in a way that causes an unintended effect in the foregoing method of indexing the commodity charges for Planning Area No. 155, the Consolidated District may modify such method of indexing in order to preserve the intent of this subparagraph to maintain constant the dollar amounts of the differences between each Planning Area No. 155 commodity charge and the Consolidated District's standard commodity charge.

(c) Service Charge Reduction. Upon consolidation, the water service charges within Planning Area No. 155 will be reduced to 80% of the SCWD water service charges that were in effect on the date of the consolidation. Until the Acquisition Balance equals zero, whenever the Consolidated District's standard water service charges are changed, the service charges within Planning Area No. 155 will be changed by the amount necessary to maintain constant the dollar amounts of the differences (that resulted from the initial percentage reduction) between such water service charges and the respective standard water service charges of the Consolidated District. All other water fees and charges for Planning Area No. 155 shall be the Consolidated District's standard fees and charges; provided, however, that the Consolidated District may, at its discretion, elect to retain an SCWD charge or establish a new charge if conversion to the Consolidated District's charges would produce an unintended or unwanted result.

(d) Application of Commodity Rate and Service Charge Differential. The difference between (1) water revenues actually collected by the Consolidated District within Planning Area No. 155 at the commodity rates and service charges in effect pursuant to subparagraphs (b) and (c) above and (2) water revenues that would have been collected using the Consolidated District's base commodity rates and service charges in effect at such time will be computed and applied by the Consolidated District after each billing period to reduce the remaining Acquisition Balance.

(e) Improvement District Nos. 153 and 253 User Rates. The commodity charge, service charge and all other charges within Improvement District Nos. 153 and 253 shall be the Consolidated District's allocation-based rate structure commodity rates and other standard rates and charges, including applicable elevation charges established in the same manner as in other portions of the Consolidated District.

(f) Connection and Capacity Charges; Acreage Assessments. Connection and capacity charges within Improvement District Nos. 153, 253, and 154 and Planning Area No. 155 shall be set by the Consolidated District based upon the respective sub-area master plans (SAMPs) to be prepared by the Consolidated District for such Improvement Districts and Planning Area. The water system capacity fees ("wscfs") established by SCWD within the territory comprising Planning Area No. 155, three and sixteen hundredths percent (3.16%) of which are promised to the repayment of that certain December 10, 2001 Promissory Note executed by SCWD, shall be continued in effect within Planning Area No. 155. The acreage assessments imposed and collected within SCWD shall be discontinued by the Consolidated District on the effective date of the consolidation.

(g) Rates After Retirement of Acquisition Balance. Subsequent to the reduction of the Acquisition Balance to zero, user rates within Planning Area No. 155 will be established in the same manner as in other portions of the Consolidated District; provided, that for purposes of setting elevation charges, Planning Area No. 155 shall constitute a single elevation zone, with a melded elevation charge to be determined for the entire zone.

(h) Allocation-Based Rate Structure in Planning Area No. 155. The water commodity rates imposed within Planning Area No. 155 shall be transitioned to the Consolidated District's allocation-based rate structure after an appropriate customer education and information period, but in no event prior to reduction of the Acquisition Balance to zero.

(i) Acquisition Balance. Planning Area No. 155 will make an equitable contribution toward the cost of the existing IRWD system and property, equal to the sum of following amounts (the "Acquisition Balance"):

- (1) Melded rate benefit provided by the Dyer Road Wellfield, agreed to be \$141,000;
- (2) Replacement fund contribution, agreed to be \$467,000;
- (3) Capital cost to fund existing system upgrades. This amount shall not exceed \$1,226,000, and shall be established by the Consolidated District, in consultation with the management advisory committee formed pursuant to Section 4(b), no later than one (1) year after consolidation, at the actual cost of correcting deficiencies known on that date and any deficiencies discovered by IRWD within said one (1) year period, not to exceed \$1,226,000;

- (4) SCWD buy-in to Santiago Canyon Road Pipeline, Allen McCulloch Turnout OC-68, and Santiago Hills Reservoir, agreed to be \$163,000;
- (5) The amount, if any, of the buy-in of the Consolidated District to the Public Employees Retirement System to cover SCWD's eligible employees at the participation and funding level of IRWD existing prior to the consolidation;
- (6) Planning Area No. 155's share of the costs of preparation of the survey and legal description of the Consolidated District, LAFCO fees, and legal fees expended to process the consolidation; such amounts shall be prorated on the effective date of the consolidation among between Planning Area No. 155 and Improvement District No. 153, based upon the actual number of residential connections in Planning Area No. 155 and the approved number of dwelling units in Improvement District No. 153; and
- (7) Outstanding debt of SCWD, excluding any debt of Improvement District No. 1, and also excluding the above-referenced December 10, 2001 Promissory Note executed by SCWD. .

(j) Acquisition Balance Reductions. The Acquisition Balance shall be reduced by the following amounts:

- (1) The actual cash balances in SCWD funds transferred and combined with the operating funds of the Consolidated District pursuant to Section 2(h) hereof after satisfaction of, or making provision for payment or discharge of, all liabilities of SCWD incurred prior to the consolidation (other than debt listed in (i)(7) above), estimated at \$2,330,000;
- (2) The appraised value of the SCWD administrative building and land, as encumbered by the existing water facilities, storage, corporate yard, and ancillary buildings and structures, less the cost of the appraisal; and
- (3) Value of Santiago Canyon Road Pump Station and Pipeline capacity to serve Improvement District No. 153 and Improvement District No. 150, agreed to be \$1,129,600.

(k) Improvement District No. 153 Share of Consolidation Costs.

Improvement District No. 153 shall pay its prorated share of the amount computed pursuant to (i)(6) above.

(l) New Development in Planning Area No. 155. It is acknowledged and agreed that the Acquisition Balance contributions listed in (i)(1), (2) and (3) have been determined based on existing connections within Planning Area No. 155. The contribution of future development that may occur within Planning Area No. 155 shall be determined based upon the applicable SAMP for such area and connection and capacity charges shall be set accordingly; provided, however, that nothing in this sentence shall affect the requirement to continue the collection of the wscfs pursuant to Section 3(f). Nothing herein shall be deemed to satisfy any contribution that may be required (in addition to payment of the rate differentials applied to the Acquisition Balance) from future development that may occur within Planning Area No. 155.

Section 4. Governance.

(a) Board of Directors. Upon consolidation, the Consolidated District shall be governed by the existing five-member board of IRWD. Elections, the size of the board and eligibility for service as a member of the board shall be as set forth in the statute governing the method of elections for IRWD.

(b) Management Advisory Committee. A management advisory committee shall be formed, consisting of up to five (5) of the SCWD board members in office immediately prior to the effective date of the consolidation, to initiate and/or review and make recommendations concerning all matters coming before the Consolidated District's board that pertain to the former SCWD service area, including but not limited to matters pertaining to the implementation of this Agreement. The term of the management advisory committee shall be three (3) years. The eligibility criteria for continued service as a member of the management advisory committee shall be the same as for the former SCWD board. Any vacancy on the committee as a result of loss of eligibility or other cause shall be filled by appointment by the Consolidated District's board of a person who is recommended by a majority of the remaining members of the committee and who meets such eligibility criteria. The committee shall sit as an advisory committee with one member of the Consolidated District board, and shall meet up to once per month. One of the tasks of the management advisory committee will be to develop and present to the Consolidated District board a recommended process for maintaining a liaison between the board and the residents of Planning Area No. 155 after the term of the committee. Such a process may include the appointment of a person to serve in a community liaison capacity.

(c) Compensation and Reimbursement. During their terms, the members of the management advisory committee shall receive per diem compensation and expense reimbursement for their services, on the same basis and subject to the same limitations as the Consolidated District's board members during their service. During their service, the Consolidated District will reimburse management advisory committee members for premiums

for insurance/benefits obtained by the management advisory committee members, up to an amount not to exceed the cost of such insurance/benefits provided by Consolidated District for its board members.

The Consolidated District shall assume the existing vested obligations of SCWD to provide lifetime health insurance coverage to former SCWD employees and former members of the SCWD board of directors.

Section 5. Personnel.

(a) Existing Employees. All employees of SCWD and IRWD as of the date of the consolidation shall become employees of the Consolidated District effective upon such date. The IRWD General Manager shall become the general manager of the Consolidated District effective upon such date. Changes in classifications and assignments of personnel may be made by the Consolidated District at its discretion for purposes of efficiency, training and elimination of duplication.

(b) Policies; Compensation. The personnel policies and position and salary grade schedules of IRWD shall be deemed adopted by the Consolidated District as of the effective date of the consolidation, as the same may be amended thereafter by the Consolidated District's board from time to time. IRWD and SCWD agree to develop and IRWD shall adopt, prior to the effective date of the consolidation, any modifications of such policies and schedules as may be necessary in order to prevent overall loss of or reduction in compensation or benefits of individual former SCWD employees. It is the intent of the parties to avoid significant loss of or reduction in benefits to the former SCWD employees to the extent feasible and to resolve any such impact on a case by case basis.

(c) Severance. In consultation with the management advisory committee, the Consolidated District shall formulate voluntary severance arrangements for employees of the former SCWD who may request separation from the Consolidated District within the initial twelve (12) months following the effective date of the consolidation.

Section 6. Operations.

(a) Evaluation of Needed Facilities. The Consolidated District will evaluate all administration and field facilities to assess continuing need and value.

(b) Condition and Maintenance. Facilities will be transferred to the Consolidated District on an "as-is" basis, subject to normal maintenance which shall continue to be performed up to the effective date of the consolidation.

(c) Permits. All permits issued to and by IRWD and SCWD will be transferred and assigned to the Consolidated District in full force and effect.

(d) SCWD Administrative Office. The SCWD Administrative Office will remain open during standard business hours for a minimum of one year.

(e) Emergency Response Program. It is the intent of the parties that the Consolidated District will take such steps as may be necessary to maintain SCWD's current emergency response programs and incorporate the former SCWD service area into the Consolidated District's participation in the WEROC program.

Section 7. Miscellaneous.

(a) Policies. The policies, controls and regulations of IRWD, set forth by resolution or otherwise, shall be deemed adopted by the Consolidated District as of the effective date of the consolidation, as the same may be amended thereafter by the Consolidated District's board from time to time. Except to the extent the Consolidated District board finds it necessary or desirable to retain policies, controls and regulations of SCWD in effect transitionally or permanently, they shall be deemed rescinded by the Consolidated District.

(b) Contracts; Joint Powers Agreements. The Consolidated District shall be the successor to all existing contractual rights and obligations of SCWD and IRWD, subject to the provisions of Section 2(d) hereof regarding allocation among improvement districts. The Consolidated District will coordinate any amendments or other actions which may be needed in joint powers and other agreements to which both IRWD and SCWD are parties.

(c) Sewer Service. The Consolidated District shall support the continued use of septic systems within Planning Area No. 155. However, in the event the extension of municipal sewer service into Planning Area No. 155 becomes mandated by a legally authorized regulatory agency or sewer service is specifically requested to be extended to property(ies) of customer(s) in Planning Area No. 155, the Consolidated District will use its best efforts to facilitate and assist in the implementation of a mechanism to finance the cost of the sewer extensions and associated treatment and disposal capacity.

(d) Land Use Decisions. IRWD does not make or affect land use decisions, and its policy is to support land use decisions made by the applicable agencies with jurisdiction in such matters. In keeping with such policy, it is the intent of IRWD as the consolidated successor district to support local land use decisions, including the Silverado-Modjeska Specific Plan, within the former SCWD service area.

(e) Community Support. The Consolidated District and management advisory committee shall seek and consider opportunities to support and participate in water-related community projects and programs in the former SCWD service area.

(f) Consolidation Effective Date. The parties shall request that July 1, 2006 be established as the effective date of the consolidation.

(g) California Environmental Quality Act (CEQA). The parties agree that IRWD shall be the lead agency for purposes of compliance with or determination of exemption from CEQA with respect to the consolidation, and that SCWD shall be a responsible agency for such purpose.

Section 8. Disclosure.

(a) Material Events. It is the intent of the parties that any material litigation (pending or threatened), regulatory action (pending or threatened), liability, unplanned expenditure, defect in title to real property, loss, contingency, or similar item materially affecting the financial or operating condition of either party shall be disclosed to the other party. It is the further intent of the parties to operate only in the ordinary course of business pending the consolidation.

(b) Notice of Unbudgeted Expenditures. From the effective date of this Agreement until the effective date of the consolidation, each party shall give the other reasonable advance notice of any expenditure greater than \$100,000 approved or made by such party, except to the extent the expenditure is identified in an adopted budget or budget amendment, a copy of which has previously been provided to the other party.

(c) Representations. Each party represents that reports and financial statements submitted by such party to the other party shall be accurate in all material respects and shall fairly and accurately represent the financial and operating condition of the submitting party as of their respective dates, and further represents that it shall promptly disclose any material adverse change in its financial or operating condition since the respective dates of such reports and statements. Each party represents that it has good title to its assets except as disclosed to the other party. Each party represents and agrees that it shall promptly disclose to the other party (i) any material damage to the facilities or property of the disclosing party for which the disclosing party will not receive insurance proceeds sufficient to completely rebuild or restore the damaged facilities or property; (ii) any material litigation which is pending or is hereafter filed or threatened against such party, except to the extent such litigation or threatened litigation is identified in financial statements provided to the other party; and (iii) any regulatory action which is pending or is hereafter filed or threatened against such party and which may materially affect such party's ability to operate under a permit.

Section 9. Counterparts. This Agreement may be executed in one or more counterparts. Each will be deemed an original and all, taken together, will constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SANTIAGO COUNTY WATER DISTRICT

By: _____

By: _____

IRVINE RANCH WATER DISTRICT

By: _____

By: _____

EXHIBIT "B"

POSTED

JAN 11 2006

Exempt per Gov't Code 6103

TOM DALY, CLERK-RECORDER
By [Signature] DEPUTY

IRWD File No. 11031

RETURN TO:

Gregory K. Herr, Planning and Resources Specialist
Irvine Ranch Water District
P.O. Box 57000
Irvine, CA 92619-7000

FILED

NOTICE OF EXEMPTION
(State Guidelines §15062)

JAN 11 2006

County Clerk's Filing Stamp

TOM DALY, CLERK-RECORDER

By [Signature] DEPUTY

TO: County Clerk
County of Orange
700 Civic Center Drive West
Box 838
Santa Ana, CA 92701

FROM: Irvine Ranch Water District (Applicant/Lead Agency)
P.O. Box 57000
Irvine, CA 92619-7000

Project No.: 11031

Project Name: Consolidation of Irvine Ranch Water District and
Santiago County Water District


Project Location (specific): See attached Location Map for districts.

Project Location: (City/ies) Irvine, portions of Tustin, Santa Ana, Foothill Ranch, Lake
Forest, Newport Beach, and unincorporated Orange County (County) Orange

Description of Nature, Purpose and Beneficiaries of Project:

Consolidation of Santiago County Water District (SCWD) and Irvine Ranch Water District (IRWD) and designation of IRWD as the consolidated successor district. The Project also includes the concurrent annexation of the territory of SCWD's Improvement District No. 1 to IRWD's Improvement District Nos. 153 and 253, or in the alternative, formation of IRWD Improvement District Nos. 153 and 253 as two separate and coterminous improvement districts comprising the territory of SCWD's Improvement District No.1. The project consolidates the existing service territories of IRWD and SCWD; IRWD as the consolidated successor district will assume and continue the same service that was provided by SCWD, and therefore, no change in previously exercised powers will take place. The beneficiaries are the customers of both Santiago County Water District and Irvine Ranch Water District.

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

 NO FEE

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FILED

Name of Public Agency Approving Project:

JAN 11 2006

Irvine Ranch Water District (IRWD)

By TOM DALY, CLERK-RECORDER DEPUTY

Name of Person or Agency Carrying Out Project:

Irvine Ranch Water District

Exempt Status: (check one)

POSTED

JAN 11 2006

- ☐ Ministerial (State Guidelines §15268)
☐ Declared Emergency (State Guidelines §15269(a))
☐ Emergency Project (State Guidelines §15269(b) or (c))
☐ Feasibility or Planning Study (State Guidelines §15262)
☒ X Categorical Exemption (State Guidelines §15320 (b))

By TOM DALY, CLERK-RECORDER DEPUTY

Class 20—changes in the organization of local governmental agencies not changing the geographical area in which previously existing powers are exercised (State Guidelines 15320).

Reasons why project is exempt:

- ☐ Pipeline project less than one mile in length in public right-of-way, involving no surface facilities (Pub. Res. Code §21080.21)
- ☐ Establishment or Modification of Rates or Charges (State Guidelines Section §15273). The Board of Directors of Irvine Ranch Water District has found that the purpose is one of the following:
- ☐ (a) meet operating expenses, including employee wage rates and fringe benefits
- ☐ (b) purchase or lease supplies, equipment or materials
- ☐ (c) meet financial reserve needs and requirements
- ☐ (d) obtain funds for capital projects necessary to maintain service within existing service areas

(explanation is required for findings (a) - (d))

The project has been determined to have the exempt status indicated above for the following reasons: Irvine Ranch Water District as consolidated successor district will

assume and continue the same service that was provided by Santiago County Water District, and therefore, no change in the area of previously exercised powers will take place.

FILED

JAN 11 2006

Contact Person: Gregory Herr, Planning and Resources Specialist
Area Code 949 Phone 453-5865

TOM DALY, CLERK-RECORDER

DEPUTY

If filed by applicant (and applicant is other than Irvine Ranch Water District):

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project:
YES _____ NO _____

Submission of this form is optional. Local agencies may file this form with the county clerk pursuant to Public Resources Code Section 21152(b). The filing of the notice starts a 35-day statute of limitations on court challenges to the approval of the project under Public Resources Code Section 21167(d). Failure to file the notice results in the statute of limitations being extended to 180 days.

Gregory Herr
Staff Member Responsible for Preparation

POSTED

JAN 11 2006

TOM DALY, CLERK-RECORDER

By

DEPUTY

Jessie Bonkowski
District Secretary

1/9/06
Date

FILED

JAN 11 2006

TOM DALY, CLERK-RECORDER

By

[Signature]

DEPUTY

POSTED

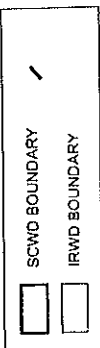
JAN 11 2006

TOM DALY, CLERK-RECORDER

By

[Signature]

DEPUTY



Existing
SCWD Boundary
(Exhibit A)

SCWD

IRWD

This document is a true and correct copy of the original as submitted to the County of San Diego, California, for filing. It is not a certified copy of the original. The County of San Diego, California, is not responsible for the accuracy or completeness of the information contained herein. The County of San Diego, California, is not responsible for the accuracy or completeness of the information contained herein. The County of San Diego, California, is not responsible for the accuracy or completeness of the information contained herein.

FILED

Existing
IRWD Boundary
(Exhibit B)

JAN 11 2006

TOM DALY, CLERK-RECORDER

By

DEPUTY

IRWD BOUNDARY
SCWD BOUNDARY

POSTED

JAN 11 2006

SCWD

By

TOM DALY, CLERK-RECORDER

DEPUTY

IRWD

Note:
This map was prepared to determine original measurements in
the region of survey. It is not intended to be used as a general
reference map. It is a reference map only for planning, informational,
and general information. It is not a legal document.

FILED

JAN 11 2006

TOM DALY, CLERK-RECORDER

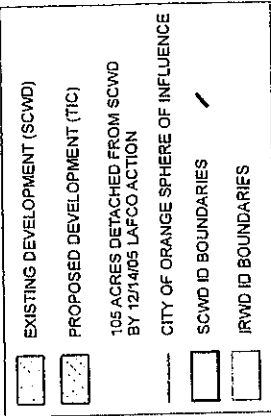
DEPUTY

POSTED

JAN 11 2006

TOM DALY, CLERK-RECORDER

DEPUTY



Pre-Consolidation
SCWD and IRWD
Improvement Districts
(Exhibit C)

SCWD

ID 2

ID 1

ID 150/250

IRWD

ID 150

ID 150

ID 150/250

ID 110

Santiago
Canyon

Rd

ID 189/289

ID 186/286

ID 188/288

ID 182/282

ID 186/286

ID 188/288

NOTE: This map was not created by a licensed professional engineer or architect. It is not intended to be used for any purpose other than informational purposes only. It is not intended to be used for any purpose other than informational purposes only.

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JAN 11 2006

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JAN 11 2006

TOM DALY, CLERK-RECORDER

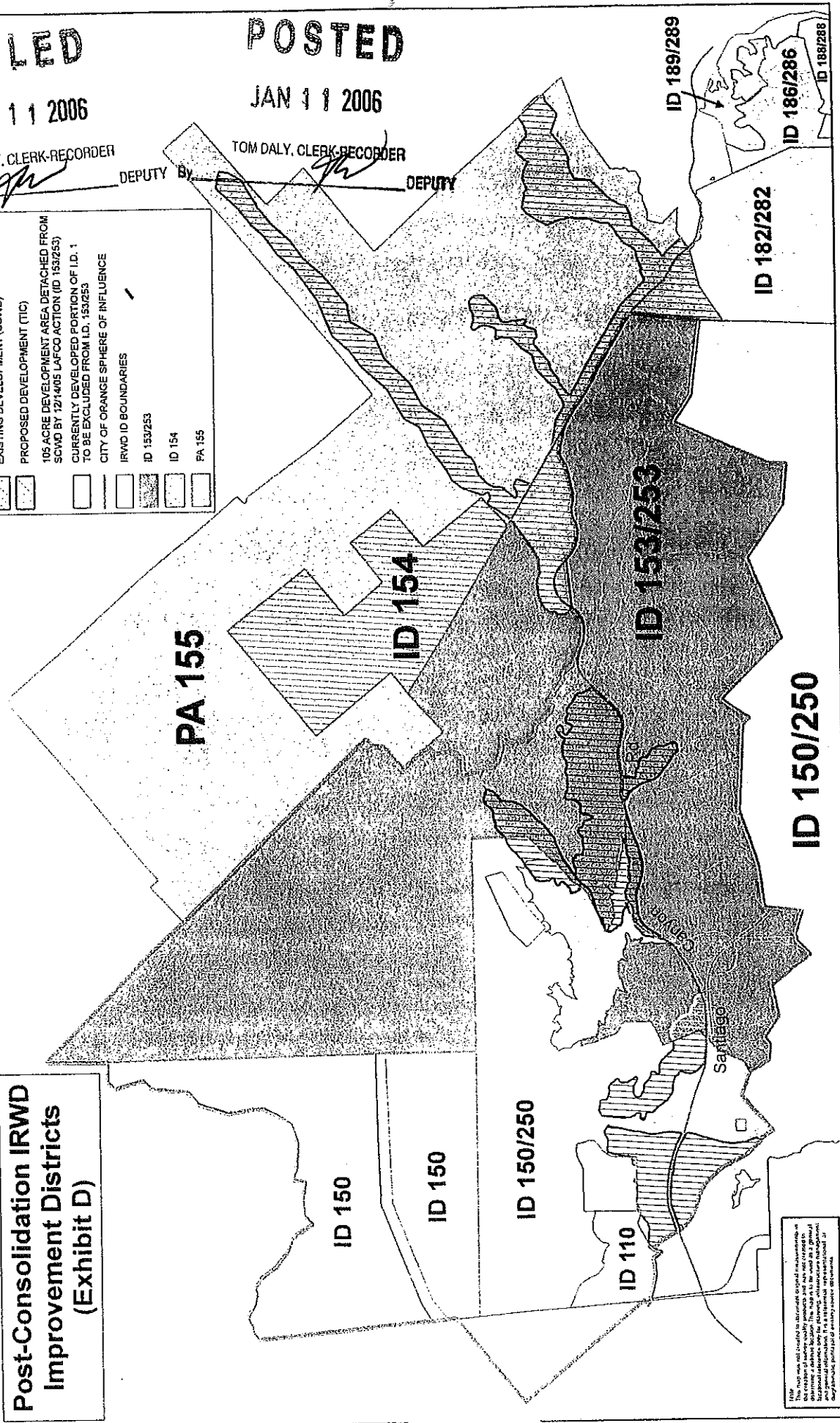
By

DEPUTY

DEPUTY

	EXISTING DEVELOPMENT (SCWD)
	PROPOSED DEVELOPMENT (TIC)
	105 ACRE DEVELOPMENT AREA DETACHED FROM SCWD BY 12/14/05 LAFCO ACTION (ID 153/253)
	CURRENTLY DEVELOPED PORTION OF ID. 1
	TO BE EXCLUDED FROM ID. 153/253
	CITY OF ORANGE SPHERE OF INFLUENCE
	IRWD ID BOUNDARIES
	ID 153/253
	ID 154
	PA 155

Post-Consolidation IRWD
Improvement Districts
(Exhibit D)



ATTACHMENT D

**STATEMENT OF DETERMINATIONS
IRWD- SCWD REORGANIZATION (RO 06-04)
SPHERE OF INFLUENCE AMENDMENT
FOR THE
CONSOLIDATED IRVINE RANCH WATER DISTRICT
Government Code §56425**

1. The present and planned land uses in the area including agricultural and open-space lands.

The area proposed for consolidation includes the service areas of the Irvine Ranch Water District and Santiago County Water District. Present and planned land uses include a mixture of residential, commercial, industrial, and open space uses.

2. The present and probable need for public facilities and services in the area.

The present need for public services and facilities in the proposed consolidation area is adequately met by the facilities and services of the Irvine Ranch Water District and Santiago County Water District. The demand for public services and facilities in the area is not expected to increase as a result of the consolidation and/or the adoption of a revised sphere of influence for the consolidated Irvine Ranch Water District as successor agency.

3. The present capacity of public facilities and the adequacy of public services which the agency provides or is authorized to provide.

The consolidated Irvine Ranch Water District as successor agency has the capacity and adequate services for both present and future land uses.

4. The existence of any social or economic communities of interest in the area.

The proposed consolidation area includes portions of the cities of Irvine, Lake Forest, Orange, Newport Beach, and Tustin, and unincorporated areas, and has overlapping social and economic communities of interest.

ATTACHMENT E

**STATEMENT OF DETERMINATIONS
IRWD- SCWD REORGANIZATION (RO 06-04)
SPHERE OF INFLUENCE AMENDMENT
FOR THE ORANGE COUNTY SANITATION DISTRICT (OCSD)**

Government Code §56425

1. The present and planned land uses in the area, including residential, park and open-space lands.

The proposed amendment to OCSD's sphere includes entire the Santiago County Water District (SCWD) Improvement District #1 (ID-1) excluding the existing residential areas. The area is included in a proposed consolidation of SCWD with the Irvine Ranch Water District (IRWD). Post consolidation, the area will be referred to as IRWD ID-253 (sewer improvement district). The planned land use for the area has been identified as residential, open space and park uses and will be developed in accordance with the City of Orange East Orange General Plan. The sphere of influence territory is located east of the Foothill/Eastern Transportation Corridors (241/261) and north of the Santiago Canyon Road.

2. The present and probable need for public facilities and services in the area.

The present and probable need for public facilities and services is primarily for the proposed land uses allowed under the East Orange General Plan. The same area is part of a proposed consolidation of the Irvine Ranch Water District and Santiago County Water District service areas. The Irvine Ranch Water District as successor agency and the Orange County Sanitation District will provide for the delivery of municipal services to the area, including water and sewer services. The consolidated Irvine Ranch Water District will provide wholesale and retail water and sewer service to the area. The anticipated annexation of area to the Orange County Sanitation District will allow for wastewater from the area to be treated using IRWD's capacity in OCSD's facilities.

3. The present capacity of public facilities and the adequacy of public services which the agency provides or is authorized to provide.

The amendment to OCSD's sphere of influence is consistent with an anticipated annexation of same area to the District's service territory. OCSD has the capacity and adequate facilities to provide the needed services.

4. The existence of any social or economic communities in the area.

No social or economic communities of interest were noted.

RO 06-04

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF
ORANGE COUNTY, CALIFORNIA
MAKING DETERMINATIONS AND APPROVING THE
IRVINE RANCH WATER DISTRICT / SANTIAGO COUNTY WATER DISTRICT
REORGANIZATION**

April 12, 2006

On motion of Commissioner _____, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed change of reorganization, designated as "Irvine Ranch Water District/Santiago County Water District Reorganization" (RO 06-04), was heretofore filed with and accepted for filing on March 21, 2006, by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set April 12, 2006 as the hearing date of this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendation thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposal consists of the following concurrent actions: consolidation of the Irvine Ranch Water District and the Santiago County Water District and establishment of the Irvine Ranch Water District as the successor agency; amendment of the sphere of influence for the Irvine Ranch Water District to include the service territory of the Santiago County Water District as the consolidated district sphere of influence (see Exhibit "A," Statement of Boundary); and amendment of the Orange County Sanitation District's sphere of influence to include the entire SCWD ID No. 1 (IRWD ID No. 253) excluding the existing residential areas; and

ATTACHMENT F

WHEREAS, this Commission on April 12, 2006 considered the proposal and the report of the Executive Officer, and considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668 and 56853; and

WHEREAS, this Commission called for and held a public hearing on the proposal on April 12, 2006, and at the hearing, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, this project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to §15320 of the state CEQA guidelines; and

WHEREAS, the Local Agency Formation Commission finds the proposal to be in the best interests of the affected area and the total reorganization of local governmental agencies within Orange County.

NOW, THEREFORE, the Local Agency Formation Commission of the County of Orange DOES HEREBY RESOLVE, DETERMINE and ORDER as follows:

Section 1. The Irvine Ranch Water District's sphere of influence, amended to include the entire former Santiago County Water District Service Territory as shown in Exhibit "B," and the Statement of Determinations for the Irvine Ranch Water District's sphere of influence, shown as Exhibit "C," are hereby adopted.

Section 2. The Orange County Sanitation District's sphere of influence, amended to include the entire SCWD ID No. 1 (IRWD ID No. 253) less excluded areas as shown in Exhibit "D," and the Statement of Determinations for the Orange County Sanitation District's sphere of influence, shown as Exhibit "E," are hereby adopted.

ATTACHMENT F

Section 3. The proposed reorganization – i.e., the consolidation of the Irvine Ranch Water District and Santiago County Water District, establishment of the Irvine Ranch Water District as the successor agency, concurrent sphere of influence amendment reflecting the newly consolidated district, and amendment of the Orange County Sanitation District's sphere of influence to include the entire SCWD ID No. 1 (IRWD ID No. 253), less excluded areas – is hereby approved, subject to the following conditions:

- a) The applicant agrees to pay for all County Recorder and State Board of Equalization fees.
- b) The applicant agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers and employees from any claim, action or proceeding against LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of LAFCO concerning this proposal or any action relating to or arising out of such approval.
- c) The provisions of the "Consolidation Agreement" entered into by and between the Irvine Ranch Water District and Santiago County Water District on January 17, 2006. (Exhibit "F")
- d) Effective upon the date of the consolidation, all of the territory that was within Improvement District No. 1 of SCWD immediately prior to said effective date is hereby annexed to both Improvement District Nos. 153 and 253 of IRWD. The water bonds of Improvement District No. 1 of SCWD (authorized but unissued) shall be the bonds of IRWD on behalf of Improvement District No. 153, and the liability for payment of the principal, interest, and any other amounts which shall become due on account of the water bonds shall be transferred to and continue in effect as a liability of

ATTACHMENT F

the territory within Improvement District No. 153, including the territory comprising the Improvement District upon its formation by the Commission's Order RO-04-16 and the territory annexed by this action. The sewer bonds of Improvement District No. 1 of SCWD (authorized but unissued) shall be the bonds of IRWD on behalf of Improvement District No. 253, and the liability for payment of the principal, interest, and any other amounts which shall become due on account of the sewer bonds shall be transferred to and continue in effect as a liability of the territory within Improvement District No. 253, including the territory comprising the Improvement District upon its formation by the Commission's Order RO-04-16 and the territory annexed by this action. The bonds may be issued and sold by IRWD on behalf of Improvement District Nos. 153 and 253, respectively, in the manner provided for issuance and sale of bonds in Water Code Section 34000 et seq., and taxes, assessments, service charges and rates may be levied or fixed and collected by IRWD in the amount necessary to provide for that payment, in the manner provided in the original authorization and, to the extent not inconsistent therewith, in the manner provided for payment of bonds in Water Code Section 34000 et seq.

- e) Effective upon the date of the consolidation, Improvement District No. 2 of SCWD is hereby renamed "Improvement District No. 154 of Irvine Ranch Water District." Improvement District No. 154 shall be deemed to be an improvement district formed under California Water Code Section 36410 et seq. The bonds of Improvement District No. 2 of SCWD (authorized but unissued) shall be the bonds of IRWD on behalf of Improvement District No. 154, and the liability for payment of the principal, interest, and any other

ATTACHMENT F

amounts which shall become due on account of the bonds shall be transferred to and continue in effect as a liability of the territory within Improvement District No. 154. The bonds may be issued and sold by IRWD on behalf of Improvement District No. 154 in the manner provided for issuance and sale of bonds in Water Code Section 34000 et seq., and taxes, assessments, service charges and rates may be levied or fixed and collected by IRWD in the amount necessary to provide for that payment, in the manner provided in the original authorization and, to the extent not inconsistent therewith, in the manner provided for payment of bonds in Water Code Section 34000 et seq.

f) The effective date shall be July 1, 2006.

Section 4. The subject territory is found to be inhabited, is within the County of Orange, and is assigned the following distinctive short-form designation: "Irvine Ranch Water District/Santiago County Water District Reorganization" (RO 06-04).

Section 5. The Commission authorizes and directs the Executive Officer to conduct protest proceedings pursuant to Government Code Sections 57000 et seq. and set a 21-day protest period.

Section 6. The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Section 56882 of the Government Code.

AYES: _____

NOES: _____

STATE OF CALIFORNIA)

) SS.

COUNTY OF ORANGE)

ATTACHMENT F

I, ROBERT BOUER, Chairperson of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 12th day of April, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of April, 2006.

ROBERT BOUER
Chairperson of the Orange County
Local Agency Formation Commission

By: _____
Robert Bouer

ATTACHMENT G

STATEMENT OF BOUNDARY

REORGANIZATION RO 06-04

Consolidation of Santiago County Water District with Irvine Ranch Water District

The reorganized district comprised of the Consolidation of Santiago County Water District and Irvine Ranch Water District will bear the name Irvine Ranch Water District.

**Existing
SCWD Boundary
(Exhibit A)**

SCWD BOUNDARY

IRWD BOUNDARY

N

SCWD

IRWD

Note:
This map was not created to document original measurements in the creation of survey quality products and was not created to determine a definite location. This map is to be used as a general locational reference only for planning, infrastructure management, and general information. It is a referential, representational, or diagrammatic portrayal of existing source documents.

**Existing
IRWD Boundary
(Exhibit B)**

IRWD BOUNDARY

SCWD BOUNDARY


N

SCWD


IRWD

Note:
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**Pre-Consolidation
SCWD and IRWD
Improvement Districts
(Exhibit C)**




EXISTING DEVELOPMENT (SCWD)




PROPOSED DEVELOPMENT (TIC)




CURRENTLY DEVELOPED PORTION OF I.D. 1
TO BE EXCLUDED FROM I.D. 153/253




105 ACRE DEVELOPMENT AREA DETACHED FROM SCWD
BY 12/14/05 LAFCO ACTION (ID 153/253 FORMATION)



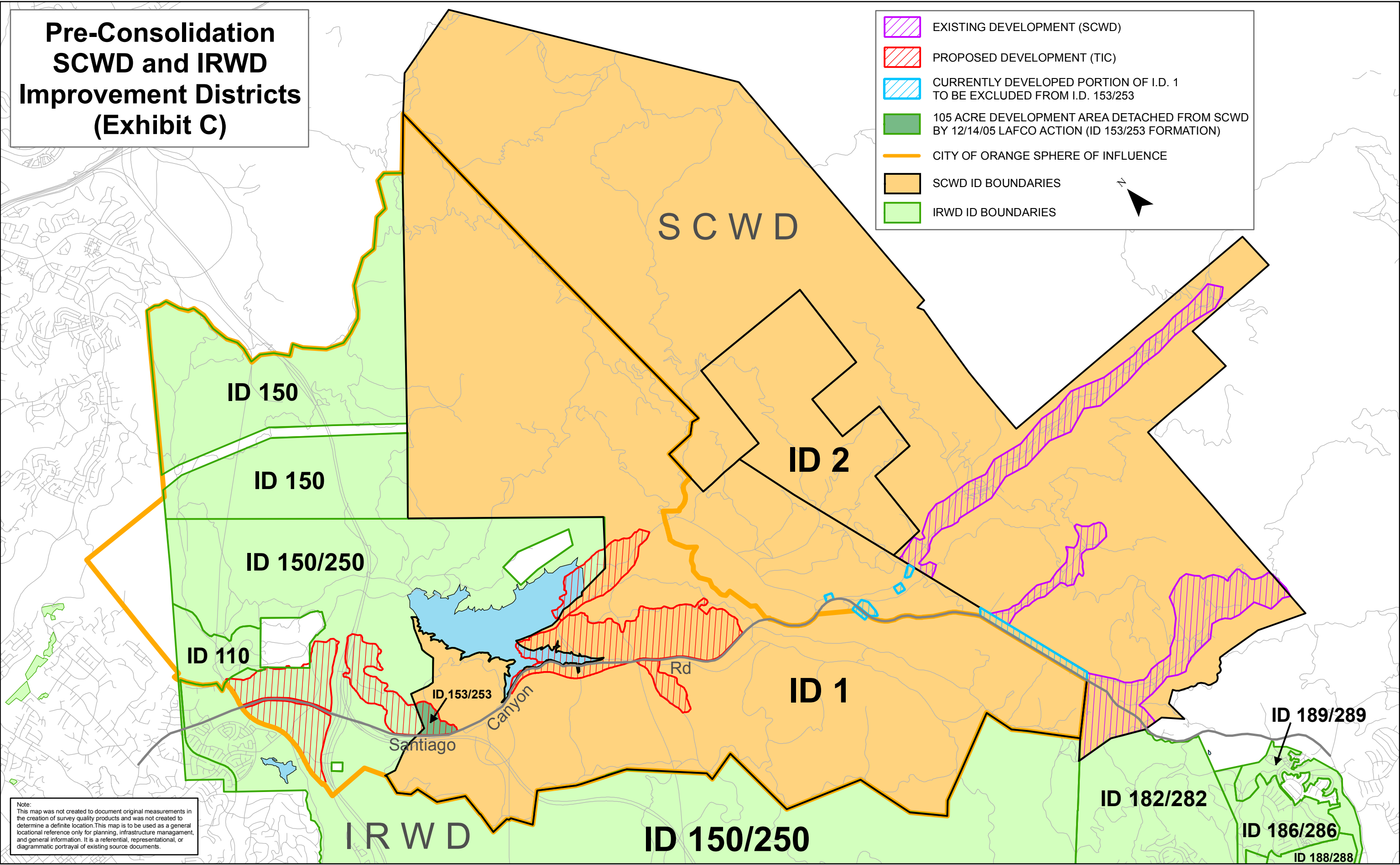
CITY OF ORANGE SPHERE OF INFLUENCE



SCWD ID BOUNDARIES



IRWD ID BOUNDARIES



Note:
This map was not created to document original measurements in the creation of survey quality products and was not created to determine a definite location. This map is to be used as a general locational reference only for planning, infrastructure management, and general information. It is a referential, representational, or diagrammatic portrayal of existing source documents.

**Post-Consolidation IRWD
Improvement Districts
(Exhibit D)**

EXISTING DEVELOPMENT (SCWD)

PROPOSED DEVELOPMENT (TIC)

CURRENTLY DEVELOPED PORTION OF I.D. 1
TO BE EXCLUDED FROM I.D. 153/253

CITY OF ORANGE SPHERE OF INFLUENCE

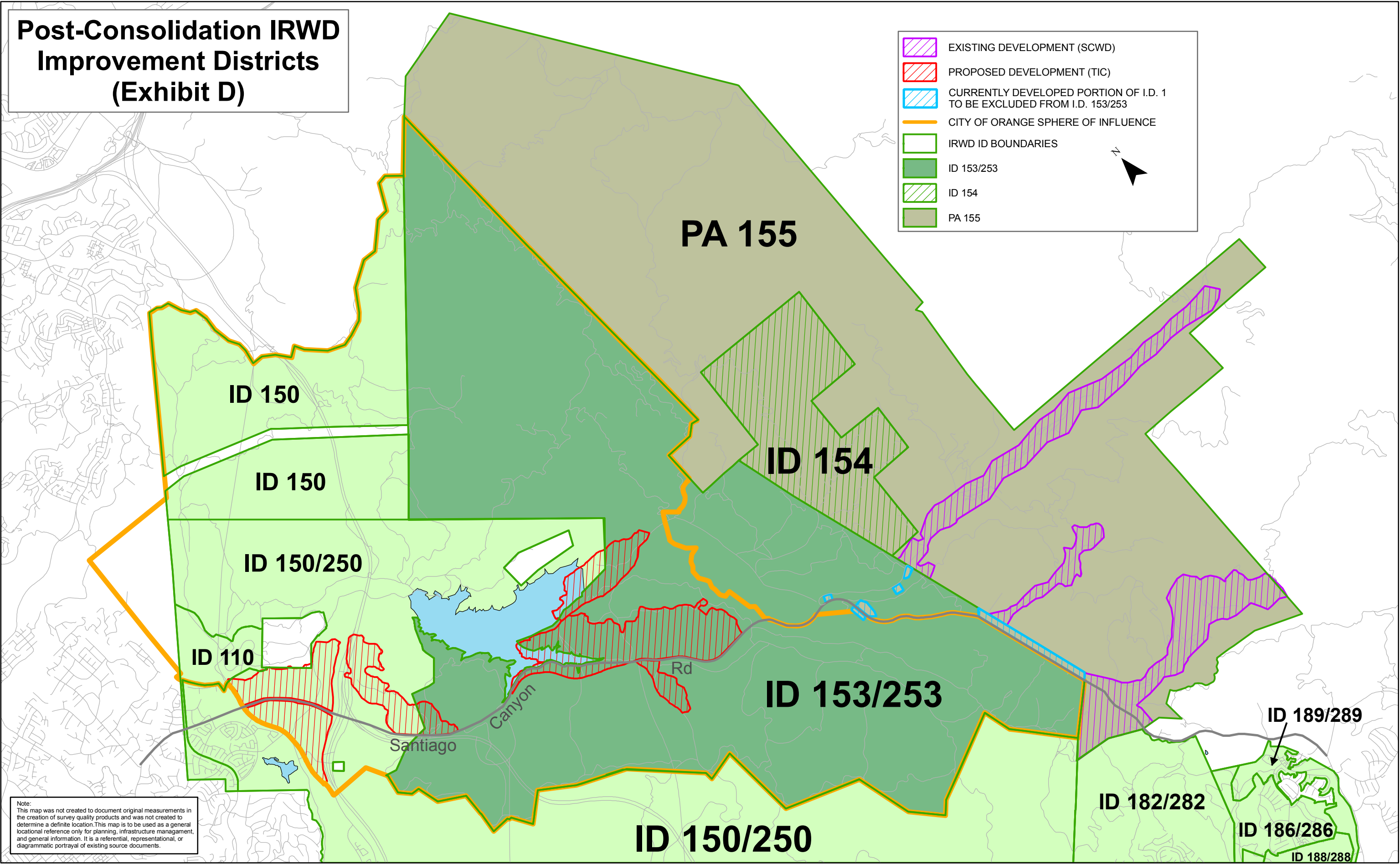
IRWD ID BOUNDARIES

ID 153/253

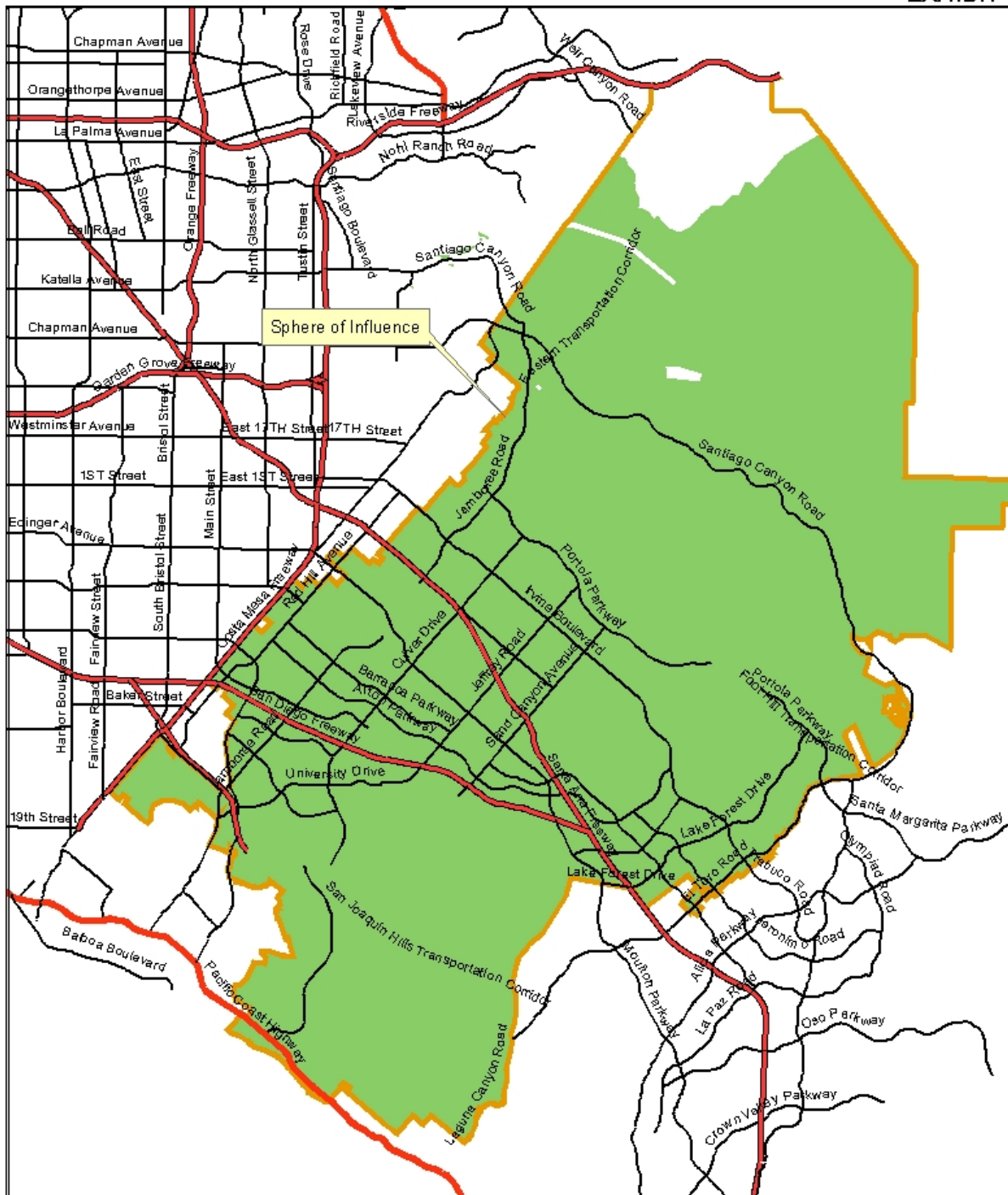
ID 154

PA 155

N



Note:
This map was not created to document original measurements in the creation of survey quality products and was not created to determine a definite location. This map is to be used as a general locational reference only for planning, infrastructure management, and general information. It is a referential, representational, or diagrammatic portrayal of existing source documents.



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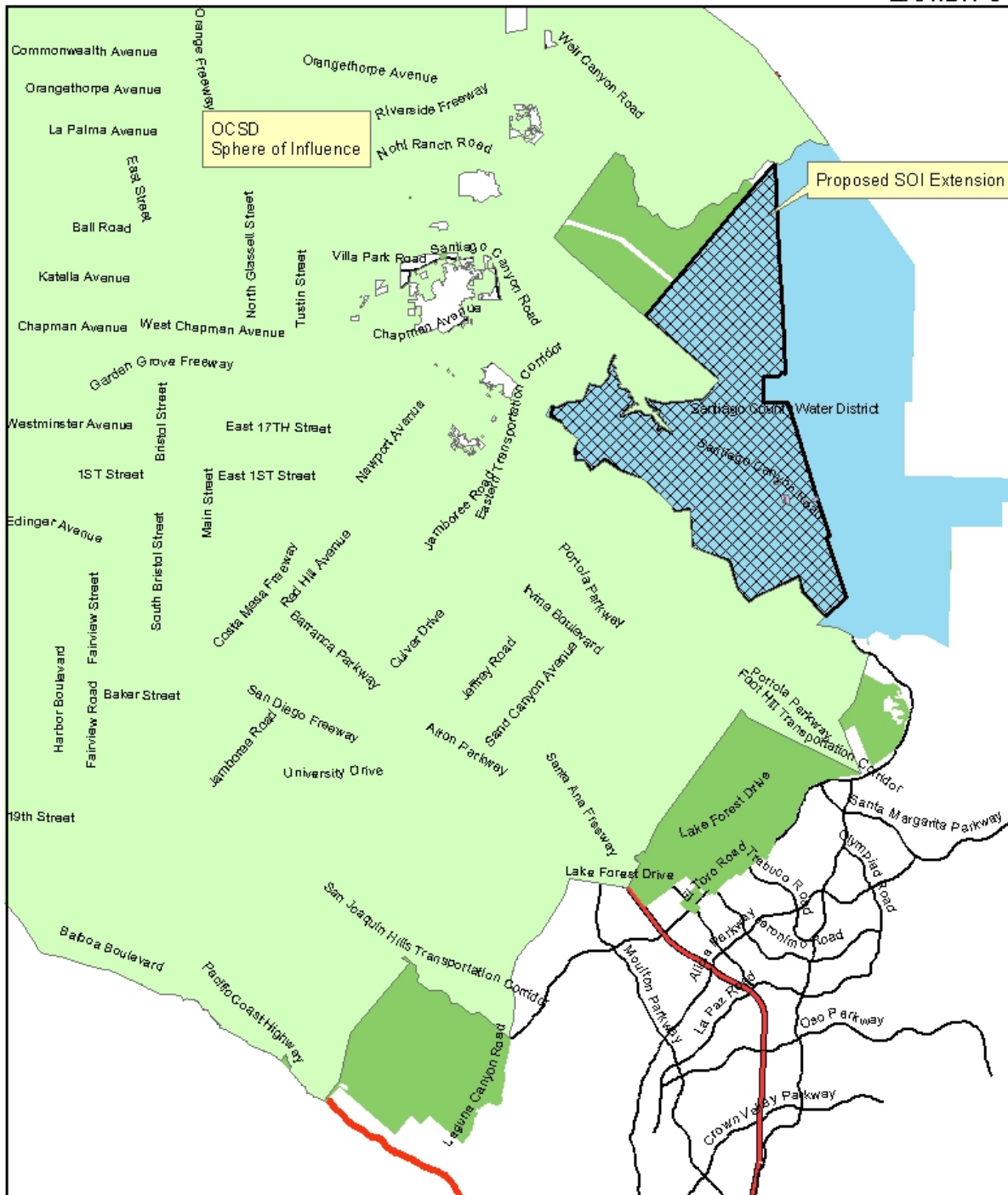


Legend	
	Sphere Boundary
	District Boundary

Proposed Consolidated Irvine Ranch Water District Sphere of Influence Map

03/31/06

SOI Originally Adopted: 05/26/76
Last Reviewed: 11/09/05



Proposed Orange County Sanitation District Sphere of Influence Map

04/04/06

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April 12, 2006

CHAIR
SUSAN WILSON
Representative of
General Public

VICE CHAIR
ROBERT BOUER
Councilmember
City of Laguna Woods

BILL CAMPBELL
Supervisor
Third District

PETER HERZOG
Councilmember
City of Lake Forest

ARLENE SCHAFER
Director
Costa Mesa
Sanitary District

TOM WILSON
Supervisor
Fifth District

JOHN WITHERS
Director
Irvine Ranch Water District

ALTERNATE
PATSY MARSHALL
Councilmember
City of Buena Park

ALTERNATE
RHONDA MCCUNE
Representative of
General Public

ALTERNATE
JAMES W. SILVA
Supervisor
Second District

ALTERNATE
CHARLEY WILSON
Director
Santa Margarita
Water District

JOYCE CROSTHWAITE
Executive Officer

TO: Local Agency Formation Commission

FROM: Executive Officer
Assistant Executive Officer

SUBJECT: Proposed LAFCO Budget for Fiscal Year 2006-2007

BACKGROUND

Government Code Section 56381(a) requires the Commission to adopt a proposed budget for all LAFCO operations by May 1st of each year. Following adoption, the proposed budget is distributed for review and comment to the Board of Supervisors, each city, the City Selection Committee, each independent special district, and the Independent Special Districts of Orange County (ISDOC) Selection Committee. The final LAFCO budget is required to be adopted by the Commission no later than June 15, 2006.

During last year's budget cycle, the Commission adopted a three-year budget which covers (FY) 2005-2006, 2006-2007 and 2007-2008. The three-year budget incorporates a six percent (6%) increase to our funding agencies (the County, cities and special districts) for each of the three fiscal years (see Table 1 below). The proposed FY 2006-2007 LAFCO budget is consistent with the three-year budget adopted by the Commission in April 2005.

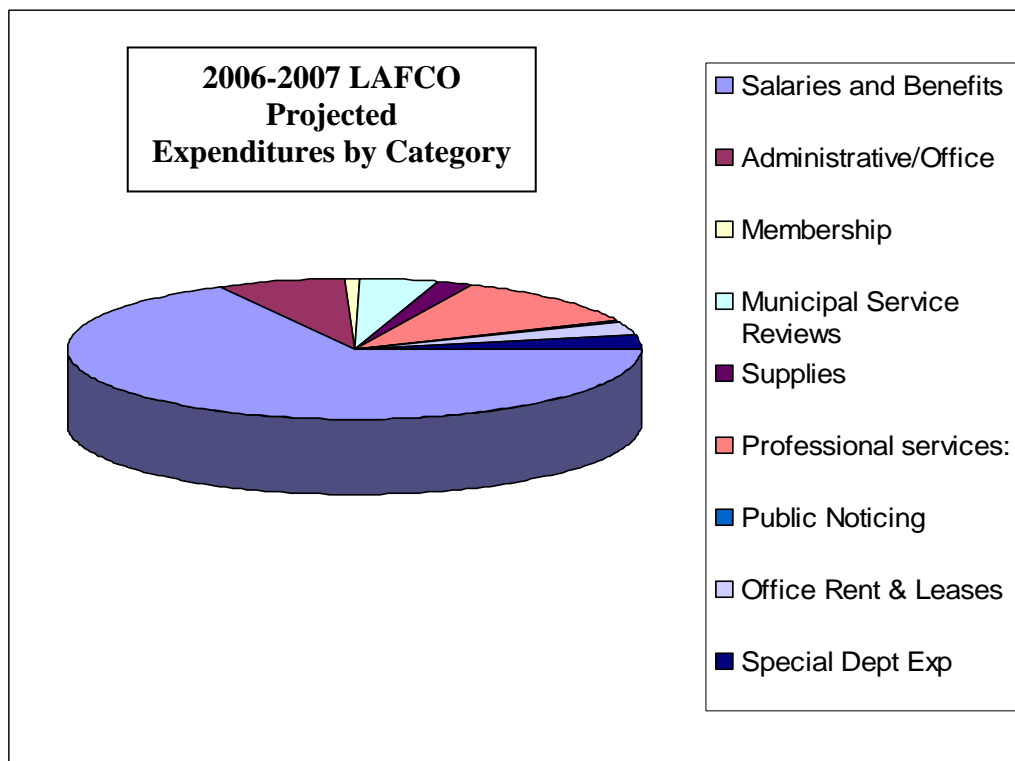
Table 1: Approved Increases to Funding Agency Contributions

Fiscal Year	2005/2006	2006/2007	2007/2008
Total Funding Contribution	\$986,775	\$1,045,982	\$1,108,741
County, City, Special District Share	\$328,925	\$348,661	\$369,580
Percent Increase	-	6%	6%

For your Commission's consideration, the proposed FY 2006-2007 LAFCO budget is presented as *Attachment 1* of this staff report. LAFCO's Executive Committee, consisting of Commissioners Bob Bouer, Bill Campbell and Susan Wilson, met with LAFCO staff on April 6, 2006 to discuss and review the proposed budget.

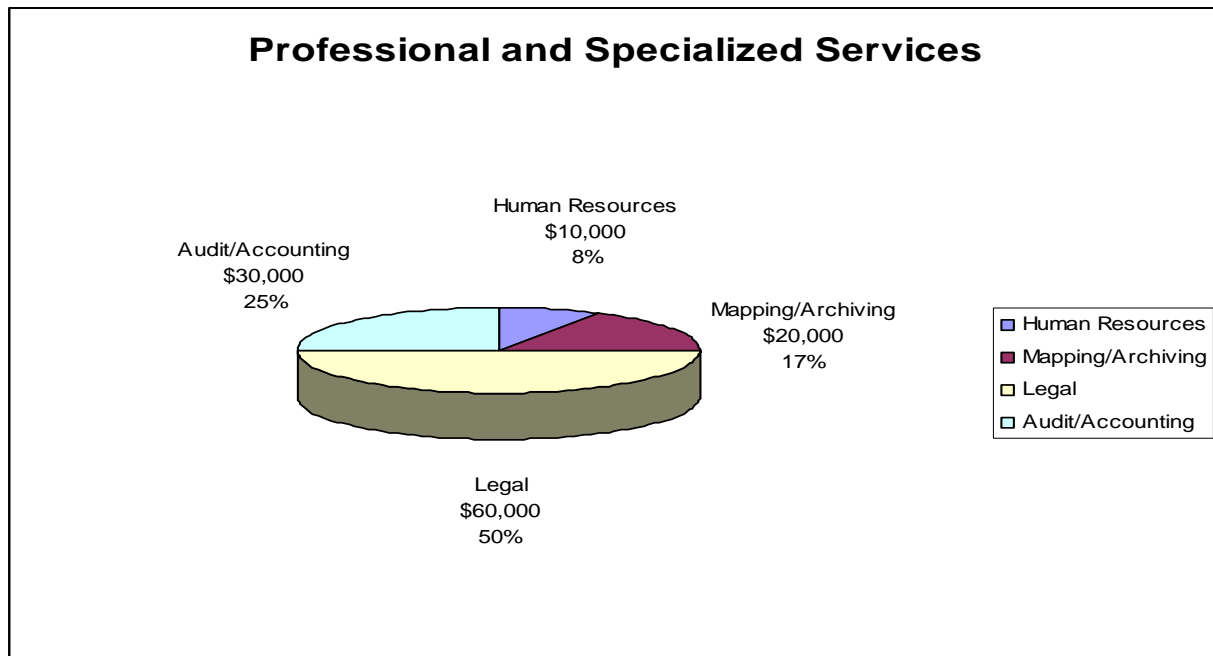
2006-2007 BUDGET OVERVIEW

Staff salaries and benefits represent the highest expenditure category within the proposed budget, representing approximately 69% of the projected FY 2006-07 expenditures. Staff was able to reduce agency retirement costs in FY 2006-07 by taking advantage of a "prepayment option" offered by the Orange County Retirement System (OCERS). By paying the agency's employer contribution for FY 2006-2007 in advance, LAFCO was eligible to receive a 7.5% discount in the total agency contributions amounting to approximately \$8,500 in annual savings.



The "Professional and Specialized Services" category represents the largest services and supply account, totaling \$120,000. It includes bookkeeping and accounting/auditing services and contracted services for legal counsel, human resources and

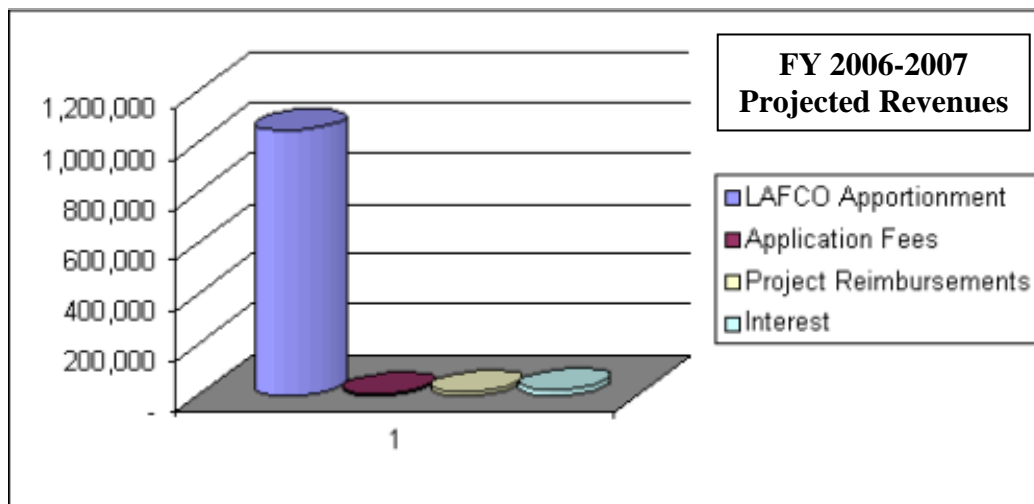
mapping/GIS/archiving services. This is a \$20,000 budget reduction over last year's professional services category because the majority of the archiving project costs were incurred during FY 2005-2006. The percentage and distribution of these costs are depicted below:



Revenues

Projected FY 2006-2007 LAFCO revenues total \$1,083,982. Ninety-six percent (96%) of the agency's revenue come from contributions from our funding agencies, the County, cities and special districts. Approximately two percent (2%) of the revenue is generated through bank and investment interest. The remaining two percent (2%) is generated through application fees and project reimbursements from applicants.

Although LAFCO converted to a "time and materials" fee schedule in July 2005, very little agency revenue is generated from application fees. This trend is indicative of the changing nature and the type of applications being processed by Orange County LAFCO. The days of large annexations and incorporations within Orange County are, for the most part, behind us. The majority of the applications OCLAFCO processes today are related to Commission-initiated municipal service reviews and sphere of influence updates - projects for which staff time and materials are not reimbursable.



The proposed FY 2006-2007 LAFCO budget identifies expenditures totaling \$1,045,982. Of this amount, \$38,000 is paid through application fees, and interest earnings. The balance, \$1,045,982, is equally divided between the County, cities and special districts, each paying \$348,661. Staff, using the cost allocation formulas previously adopted by the Independent Special Districts of Orange County and the Orange County League of Cities, calculated individual city and special district contributions for the proposed FY 2006-2007 budget. City and special district contribution summaries are included in *Attachments 3 and 4*, respectively.

City Allocations

The cities' formula allocates individual city costs based on a formula using the size and population of a city. Large cities with significant populations, such as Anaheim, Irvine and Santa Ana, for example, pay a higher contribution than do smaller cities with less population. Cumulatively, the 34 cities will pay an increase of approximately \$20,000 over the FY 2005-2006 cities' contribution. This increase is spread out among the County's 34 cities. Individual city increases for FY 2006-2007 range from a \$52 increase for the City of Villa Park to approximately \$2,000 for the City of Irvine.

Special District Allocations

The special districts' allocation formula, originally adopted by the Independent Special Districts of Orange County (ISDOC) in 2001 and reaffirmed in August 2005, distinguishes between non-enterprise and enterprise special districts. Non-enterprise districts pay a fixed cost ranging from \$250 to \$2,000 annually. Allocations for non-enterprise districts are capped and do not increase.

The ISDOC formula for enterprise districts uses a tiered formula based on the districts' operating revenues as reported in the annual State Controller's Report. Districts are placed in one of five categories (A, B, C, D or E) based on the amount of their operating revenues. Each category pays a fixed percentage of the overall LAFCO special district allocation ranging from 1.7% for "A" districts to 10% for "E" districts (see *Table 2* below).

Table 2: Enterprise Special District Allocation Categories*

Category	Enterprise Special District Operating Revenues	% Contribution by Each District
A	Less than \$1 million	1.7
B	\$1million - \$5 million	3.7
C	\$5million - \$10 million	5.6
D	\$10 million - \$25 million	7.6
E	\$25 million +	10

**Per August 2005 ISDOC Allocation Formula*

Cumulatively, the 27 special districts will pay an increase of approximately \$20,000 over the FY 2005-2006 special districts' contributions. Individual special district allocations for FY 2006-2007 are listed on *Attachment 4*.

Trabuco Canyon and East Orange County Water Districts

Using the adopted ISDOC allocation formula, 2006-2007 increases in LAFCO contributions for enterprise special districts range from \$226 for "A" districts, \$411 for "B" districts, \$586 for "C" districts, \$771 for "C" districts and \$993 for "E" districts. Two districts, Trabuco Canyon Water District and East Orange Water District, however, will incur significant increases in LAFCO contributions for FY 2006-2007 over the prior fiscal year as indicated on *Table 3*, below.

Table 3: Trabuco Canyon and EOWD Contributions

DISTRICT	05/06 LAFCO Contribution	06/07 LAFCO Contribution	06/07 Increase
Trabuco Canyon Water District	\$16,541	\$23,510	\$6,969
East Orange County Water District	\$10,929	\$16,957	\$6,028

Operating revenues for Trabuco Canyon Water District, as reported in the State Controller's Report, exceeded \$10 million which moves the district from a "C" to a "D" category. Similarly, operating revenues for the East Orange County Water District exceeded \$5 million, moving the district from a "B" to a "C" category. Of the enterprise special districts, Trabuco Canyon and East Orange County Water Districts are the only two districts to move to a higher category from FY 2005-2006 to FY 2006-2007. This has resulted in these two districts paying a disproportionate share (65%) of the overall LAFCO special district allocation increase for FY 2006-2007. Shifts in district categories were not anticipated when ISDOC adopted their original allocation formula.

In allocating costs among special districts, Government Code Section 56381(c) states that "... it is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs." LAFCO staff has contacted both districts to determine if there were errors in the revenue amounts as reported by the State Controller. If the revenue amounts are correct, LAFCO will work with ISDOC to more equitably spread the 2006-2007 LAFCO costs among all of the enterprise special districts. Alternatives to the current formula are available, including:

- Maintaining the existing categories used in FY 2005-2006 for the enterprise special districts. This option would change the existing ISDOC formula so that adjustments to district categories are no longer tied to changes in district operating revenues, but could be made subject to periodic ISDOC review.
- Spreading special district costs according to the relative populations served by each district with a pre-determined cap on larger districts (e.g., MWD and OCWD) so no single district would pay a disproportionately large share of the costs. Government Code Section 56381(B) allows the use of an alternative method to distribute special district costs if that formula is approved by a majority of the agencies representing a majority of their combined populations. ISDOC did re-approve the current formula in 2005.

CONCLUSION

The proposed LAFCO budget for 2006-07 is consistent with the three-year budget adopted by the Commission in April 2005. It maintains existing staffing levels to carry out the Commission's work plan adopted in the January 2006 Strategic Plan and balances revenues and expenditures without relying on project reserves.

RECOMMENDATIONS

Staff recommends that the Commission:

1. Adopt the Draft FY 2006-2007 Local Agency Formation Commission budget, and direct the Executive Officer to distribute the proposed budget for review and comment to the Board of Supervisors, each city, the City Selection Committee, each independent special district and the Independent Special Districts of Orange County (ISDOC) Selection Committee.
2. Direct staff to work with the Independent Special Districts of Orange County (ISDOC), the Trabuco Canyon Water District and the East Orange County Water District to determine if agreement can be reached to redistribute LAFCO costs among the enterprise special districts for FY 2006-2007.
3. Direct staff to schedule a public hearing for consideration and adoption of the final FY 2006-2007 LAFCO budget at the May 10, 2006 Commission meeting.

Respectfully submitted,

JOYCE CROSTHWAITE
Executive Officer

CAROLYN EMERY
Project Manager

BOB ALDRICH
Assistant Executive Officer

Attachments:

1. Proposed LAFCO Budget for FY 06-07
2. Definitions of Budget Categories
3. Special District Cost Allocations for FY 06-07
4. City Cost Allocations for FY 06-07

Attachment 1
Draft LAFCO Budget
Fiscal Year 2006/2007

	FY 04/05 Actual	FY 05/06 Projected	FY 05/06 Approved Budget	FY 06/07 Proposed Budget
Revenues:				
Prior year's unspent budget	\$ -	-	58,014	-
4000 LAFCO Apportionment	930,920	986,775	986,775	1,045,982
4050 Application Fees	64,229	22,792	18,000	6,000
Project Reimbursements	-	-	-	12,000
4200 Interest	10,593	22,366	14,000	20,000
4150 Miscellaneous Revenue	6,216	477	-	-
Total Revenues	1,011,958	1,032,410	1,076,789	1,083,982
Expenditures:				
Salaries and Benefits	691,151	705,928	702,322	744,804
5150 Information Technology	3,680	9,228	-	4,000
5151 Telephone	5,612	698	5,700	1,000
5200 County charges	2,997	5	3,500	5,000
5250 Insurance	10,378	9,319	15,841	17,277
5301 Repairs and maintenance	2,368	2,143	4,300	3,000
5302 Utilities	1,737	-	-	-
5350 Membership	8,186	7,498	10,000	10,000
5400 Municipal Service Reviews	55,922	51,850	68,000	50,000
5450 Office equipment/supplies	28,057	17,625	20,000	20,000
Professional services:		-		
5510 Legal	58,395	68,107	60,000	60,000
5520 Audit/Accounting	21,961	21,672	30,000	30,000
5530 Human Resources	15,078	-	10,000	10,000
5535 Mapping	1,755	14,373	40,000	20,000
5540 Other professional	12,947	22,346	-	10,000
5550 Investment Admin Fees	455	139	300	-
5600 Public Noticing	4,090	20,241	6,000	6,000
5625 Postage	-	3,487	2,200	2,200
5650 Office Rent & Leases	32,091	32,714	40,526	31,845
5700 Special Dept Exp	16,769	12,686	25,000	26,000
Staff Training	-	-	-	5,000
5800 Transpo/Travel/Registration	16,430	21,840	25,000	20,000
5850 Commission Mtg.Expenses	7,205	10,737	8,100	6,000
Subtotal Services & Supplies	306,113	326,705	374,467	337,322
Total Expenditures	997,264	1,032,633	1,076,789	1,082,126
Revenues over expenditures	\$ 14,694	(223)	-	1,856

ATTACHMENT 2

LAFCO Budget Expenditure Categories

The following summarizes what is included in each of the expenditure categories used in the proposed FY 2006-2007 LAFCO Budget:

Salaries and Benefits

These accounts are used to pay for LAFCO employee salaries and benefits, including retirement, unemployment insurance, health and dental insurance, workers compensation and Medicare.

5150 Information Technology

This account is used to pay for the maintenance and repair costs of office computers, modem lines and Internet access. LAFCO contracts with County IT services for this function.

5151 Telephone

Office phone charges are paid out of this account.

5200 County Charges

LAFCO contracts with the County to provide internal “pony” mail service within County departments, payroll services, warehouse storage for LAFCO files and records, and billing and collection of County, city and special district allocations.

5301 Repairs and Maintenance

This account is used to pay for repairs and maintenance to the LAFCO offices.

5350 Membership

CALAFCO and OCLS membership fees are paid out of this account.

5400 Municipal Service Reviews

This account pays for fiscal, environmental and/or facilitation consultants needed for the completion of Municipal Service Reviews.

5450 Office Equipment/Supplies

This category provides for the purchase of computer and office supplies/equipment and software for on-going office automation requirements.

5510 – 5540 Professional Services

This category covers the costs for LAFCO legal counsel through the law offices of Best, Best & Krieger and bookkeeping and accounting services through Conrad Business Services, Inc. This account also pays for a certified public accounting firm to conduct mandated annual audits of LAFCO’s financial statements and consultant assistance to implement LAFCO’s archiving and GIS mapping programs.

5600 Public Noticing

Legal publication costs for Commission-initiated projects (e.g., municipal service reviews, annual budget adoption, etc.) are paid through Account 5600.

5625 Postage

This account pays for mail postage when distributing LAFCO correspondence, invoices, letters, staff reports and other documents.

5650 Office Rent & Leases

LAFCO leases its office space from the County. LAFCO also leases a copier and postage meter. Office rent and lease payments for the copier and postage meter are paid out of this account.

5700 Special Department Expense

This account pays for Commissioner meeting stipends, mileage, parking, and staff training expenses.

5800 Transportation/Travel/Registration

Funds from this account category are used to pay for registration and travel expenses for commissioners and staff to the CALAFCO annual conference and the CALAFCO annual workshop.

5850 Commission Meeting Expenses

Funds to pay for coffee, water, nameplates and other miscellaneous items used during Commission meetings are paid for out of this fund.

**Attachment 3
Special District
FY 06-07 Allocations**

District	Category	Percent	ISDOC Formula Calculation*	Adjutment	Adjusted 06-07 LAFCO Costs
Surfside Colony Stormwater	N-E 1	--	\$250	\$0	\$250
Surfside Colony CSD	N-E 1	--	\$250	\$0	\$250
Capistrano Bay CSD	N-E 2	--	\$500	\$0	\$500
Rossmoor CSD	N-E 2	--	\$500	\$0	\$500
Silverado-Modjeska Rec. & Park	N-E 2	--	\$500	\$0	\$500
Rossmoor/Los Alamitos Sewer	N-E 2	--	\$500	\$0	\$500
Three Arch Bay CSD	N-E 3	--	\$1,000	\$0	\$1,000
Placentia Library	N-E 3	--	\$1,000	\$0	\$1,000
Buena Park Library	N-E 4	--	\$2,000	\$0	\$2,000
Orange County Vector Control	N-E 4		\$2,000	\$0	\$2,000
Orange County Cemetery	N-E 4		\$2,000	\$0	\$2,000
Total Non-Enterprise Districts			\$10,500	\$0	\$10,500
Emerald Bay CSD	A	1.7	\$5,570.24	-\$1,391.63	\$4,178.61
Sunset Beach Sanitary	A	1.7	\$5,570.24	-\$1,391.63	\$4,178.61
Midway City Sanitary	B	3.7	\$12,123.46	-\$1,391.63	\$10,731.83
Serrano Water	B	3.7	\$12,123.46	-\$1,391.63	\$10,731.83
East Orange County Water	C	5.6	\$18,349.02	-\$1,391.63	\$16,957.39
Costa Mesa Sanitary	C	5.6	\$18,349.02	-\$1,391.63	\$16,957.39
Trabuco Canyon Water & Sewer	D	7.6	\$24,902.24	-\$1,391.63	\$23,510.61
Yorba Linda Water & Sewer	D	7.6	\$24,902.24	-\$1,391.63	\$23,510.61
South Coast Water & Sewer	D	7.6	\$24,902.24	-\$1,391.63	\$23,510.61
El Toro Water & Sewer	D	7.6	\$24,902.24	-\$1,391.63	\$23,510.61
Mesa Consolidated Water	D	7.6	\$24,902.24	-\$1,391.63	\$23,510.61
Irvine Ranch Water & Sewer	E	10	\$32,766.10	-\$1,391.63	\$31,374.47
Moulton Niguel Water & Sewer	E	10	\$32,766.10	-\$1,391.63	\$31,374.47
MWDOC Water	E	10	\$32,766.10	-\$1,391.63	\$31,374.47
OCWD Water	E	10	\$32,766.10	-\$1,391.63	\$31,374.47
Santa Margarita Water & Sewer	E	10	\$32,766.10	-\$1,391.63	\$31,374.47
Total Enterprise Districts		110	360,427.10	-22,266.08	\$338,161.02

TOTAL NON-ENTERPRISE DISTRICT CONTRIBUTION

10,500

TOTAL ENTERPRISE DISTRICT CONTRIBUTION

338,161

TOTAL '06-'07 LAFCO CONTRIBUTION

\$348,661

Attachment 4
City
FY 06-07 Allocations

<i>City</i>	<i>Jan. 1, 2004 Population¹</i>	<i>Area Sq. Miles</i>	<i>2/3rd Allocation Based on Population</i>	<i>%</i>	<i>1/3rd Allocation Based on Sq. Miles</i>	<i>%</i>	<i>Combined City Allocation</i>
Aliso Viejo	43,879	6.9	\$ 3,579.09	1.53%	\$ 1,566.53	1.36%	\$ 5,145.62
Anaheim	337,440	50.3	\$ 27,454.57	11.75%	\$ 11,419.77	9.93%	\$ 38,874.34
Brea	37,962	11.1	\$ 3,147.14	1.35%	\$ 2,520.07	2.19%	\$ 5,667.21
Buena Park	80,617	10.1	\$ 6,445.19	2.76%	\$ 2,293.03	1.99%	\$ 8,738.22
Costa Mesa	111,512	15.5	\$ 9,019.09	3.86%	\$ 3,519.01	3.06%	\$ 12,538.11
Cypress	47,644	6.9	\$ 3,884.87	1.66%	\$ 1,566.53	1.36%	\$ 5,451.40
Dana Point	36,247	6.8	\$ 2,923.02	1.25%	\$ 1,543.83	1.34%	\$ 4,466.84
Fountain Valley	56,268	9.6	\$ 4,559.87	1.95%	\$ 2,179.52	1.89%	\$ 6,739.39
Fullerton	131,574	22.6	\$ 10,786.66	4.62%	\$ 5,130.95	4.46%	\$ 15,917.61
Garden Grove	169,911	17.9	\$ 13,678.27	5.86%	\$ 4,063.89	3.53%	\$ 17,742.16
Huntington Beach	196,954	27.3	\$ 15,961.74	6.83%	\$ 6,198.00	5.39%	\$ 22,159.75
Irvine	164,923	55.5	\$ 14,374.82	6.15%	\$ 12,600.34	10.95%	\$ 26,975.16
Laguna Beach	24,589	7.8	\$ 1,985.17	0.85%	\$ 1,770.86	1.54%	\$ 3,756.03
Laguna Hills	32,875	6.6	\$ 2,643.79	1.13%	\$ 1,498.42	1.30%	\$ 4,142.21
Laguna Niguel	65,092	14.7	\$ 5,257.37	2.25%	\$ 3,337.39	2.90%	\$ 8,594.76
Laguna Woods	18,208	3.0	\$ 1,460.59	0.63%	\$ 681.10	0.59%	\$ 2,141.69
La Habra	61,188	7.3	\$ 4,911.13	2.10%	\$ 1,657.34	1.44%	\$ 6,568.47
Lake Forest	77,332	16.8	\$ 6,203.01	2.66%	\$ 3,814.16	3.31%	\$ 10,017.17
La Palma	15,954	2.0	\$ 1,280.99	0.55%	\$ 454.07	0.39%	\$ 1,735.06
Los Alamitos	11,817	4.3	\$ 954.30	0.41%	\$ 976.24	0.85%	\$ 1,930.55
Mission Viejo	98,943	17.4	\$ 7,807.19	3.34%	\$ 3,950.38	3.43%	\$ 11,757.57
Newport Beach	79,987	25.2	\$ 6,608.49	2.83%	\$ 5,718.97	4.97%	\$ 12,327.45
Orange	134,523	23.6	\$ 10,951.95	4.69%	\$ 5,357.98	4.66%	\$ 16,309.93
Placentia	49,097	6.6	\$ 4,000.95	1.71%	\$ 1,498.42	1.30%	\$ 5,499.37
Rancho Santa Margarita	48,810	13.1	\$ 3,915.56	1.68%	\$ 2,974.13	2.58%	\$ 6,889.70
San Clemente	60,701	18.0	\$ 5,194.72	2.22%	\$ 4,086.60	3.55%	\$ 9,281.32
San Juan Capistrano	35,215	14.1	\$ 2,868.40	1.23%	\$ 3,201.17	2.78%	\$ 6,069.56
Santa Ana	347,237	27.3	\$ 27,961.81	11.97%	\$ 6,198.00	5.39%	\$ 34,159.82
Seal Beach	24,921	12.2	\$ 2,014.19	0.86%	\$ 2,769.80	2.41%	\$ 4,783.99
Stanton	38,411	3.1	\$ 3,085.76	1.32%	\$ 703.80	0.61%	\$ 3,789.57
Tustin	69,754	11.0	\$ 5,634.63	2.41%	\$ 2,497.36	2.17%	\$ 8,131.99
Villa Park	6,206	2.1	\$ 495.32	0.21%	\$ 476.77	0.41%	\$ 972.09
Westminster	90,643	10.2	\$ 7,335.96	3.14%	\$ 2,315.74	2.01%	\$ 9,651.70
Yorba Linda	62,678	19.9	\$ 5,217.22	2.23%	\$ 4,517.96	3.93%	\$ 9,735.18
TOTALS	2,938,201	506.8	\$ 233,602.87	100.00%	\$ 115,058.13	100.00%	\$ 348,661.00

¹ County of Orange Geomatics/Land Information Systems Boundary Unit



April 12, 2006

CHAIR
ROBERT BOUER
Councilmember
City of Laguna Woods

VICE CHAIR
BILL CAMPBELL
Supervisor
Third District

PETER HERZOG
Councilmember
City of Lake Forest

ARLENE SCHAFER
Director
Costa Mesa
Sanitary District

SUSAN WILSON
Representative of
General Public

TOM WILSON
Supervisor
Fifth District

JOHN WITHERS
Director
Irvine Ranch Water District

ALTERNATE
PATSY MARSHALL
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City of Buena Park

ALTERNATE
RHONDA MCCUNE
Representative of
General Public

ALTERNATE
JAMES W. SILVA
Supervisor
Second District

ALTERNATE
CHARLEY WILSON
Director
Santa Margarita
Water District

JOYCE CROSTHWAITE
Executive Officer

TO: Local Agency Formation Commission

FROM: Joyce Crosthwaite, Executive Officer
Kim Koeppen, Project Manager

SUBJECT: Proposed "Sullivan Annexation to the Orange County
Sanitation District" (DA 05-16)

APPLICANT

Orange County Sanitation District, by Resolution of Application with property owner consent.

PROPOSAL

This report represents a request before LAFCO to consider the annexation of approximately one acre of uninhabited territory to the Orange County Sanitation District. The purpose of the proposal is to provide sewer service to two separate parcels each with one existing single-family residence. This annexation requires an accompanying out-of-area service agreement (OASA) for one of the properties to facilitate local sewer service provision by the City of Orange. The other parcel will connect directly to the OCSD sewer. (See Attachment A, OASA.)

LOCATION & LAND USE

The subject annexation is generally located in the unincorporated Orange Park Acres area of Orange County. The territory is situated near the intersection of Randall Street and Clark Street. (See Exhibit 1, location map.) The subject area is zoned for residential use and is surrounded by existing single-family residential development.

BACKGROUND

The application is similar to several proposals filed with LAFCO over the past few years by the OCSD on behalf of residents requesting access to sewer service to properties located in the Orange Park Acres community. Individual requests to connect to public sewer have been

addressed through a contractual agreement between the City of Orange and residents (OASA). Pursuant to Government Code Section 56133, a city may provide new or extended services outside its jurisdictional boundaries if it first requests and receives written approval from the commission in the affected county.

The annexation application submitted to LAFCO on May 16, 2005 originally included eight properties proposed for annexation to the Sanitation District. The Sullivans and seven other neighbors consented to a group annexation to OCSD to take advantage of a lower annexation fee. However, at this time, only two property owners are ready to connect and have completed all the required steps short of LAFCO approval.

The subject properties are located near a sewer main. One owner will connect directly to the OCSD sewer and requires no OASA, and the other has an approved OASA with the city and will construct a lateral connection immediately upon approval of the annexation. Of the remaining property owners, one is in the process of finalizing an agreement with the City, and the other four do not wish to connect at this time.

Staff has modified the original application as filed by OCSD to allow the Commission to consider the annexation of two properties ready and willing to connect to public sewer now.

DISCUSSION

The Commission's current policy is to consider OCSD annexation requests in OPA only when accompanied by an approved OASA. The majority of annexation requests in OPA do require an out-of-area agreement to facilitate local sewer service by the City of Orange. Under previous OASA processes, some proposals approved by the Commission were held for several months prior to recordation awaiting receipt of an executed OASA. Each of the OPA annexations has required additional staff time beyond more routine district annexations due to the need for out-of-area agreements. Despite LAFCO staff facilitating many coordination meetings with the OCSD and the City, the overall Orange Park Acres OASA process has been problematic.

Catch 22

In this instance, the complication began when a number of OPA property owners jointly applied for a group annexation to the OCSD. The cost to residents applying for annexation to the OCSD is less per property if part of a group application. However, not all of the subject property owners intended to connect immediately and were not interested in signing an out-of area service agreement with the City until they were ready to connect. This caused a delay in approving the overall application. The property owners interested in immediate connection got stuck in the middle of a protracted process. One of the subject property owners had to delay remodeling their home for over six months due to the entanglements related to the original proposal.

Staff recommends that the Commission approve the modified annexation of the two subject parcels. This eliminates any further delays in connecting those properties to public sewer. However, a quick fix in this case does not resolve the problem of an overall inefficient process.

Next Steps

In the Orange/Villa Park/Orange SOI MSR report to the Commission in 2005, staff raised the issue of septic systems in unincorporated areas and the future service delivery and public health impacts. This problem is not unique to Orange Park Acres; it is a problem in unincorporated areas of Santa Ana, La Habra, and North Tustin. Staff has lead discussions with the County of Orange, OCSD and cities to brainstorm possible options. There is no easy solution to the problem of providing local sewer service to unincorporated areas. The OCSD has indicated no interest in taking on new local service responsibility. Therefore, cities are targeted with local sewer responsibility but are not always comfortable with the potential liability associated with providing service outside their jurisdiction. Though an out-of-area service agreement is the most applicable LAFCO tool available for properties in unincorporated areas, it may not be the best long-term solution particularly for cities.

The City of Orange has expressed such concerns related to sewer service in OPA. In recent correspondence, the City of Orange indicated its intent to stop processing requests for out-of-area sewer service agreements as of June 30, 2006 if certain issues are not addressed. (See Attachment B, correspondence.) The primary issues identified include:

- Execution of an agreement between the City and County designating the City as the sewerage agency in unincorporated OPA (*effort not begun*)
- Completion of a blanket OCSD annexation of OPA (*not complete*)
- Implementation of an OCSD sewer master plan for OPA (*plan completed but not approved*)
- Preparation of a city OASA for LAFCO review and approval (*in progress*)

The OCSD has indicated its intent to pursue a blanket annexation of the remaining properties in OPA and North Tustin unincorporated area not currently in the District's service territory. Staff has been told the District is working on the CEQA documentation for the project though no specific timeline has been identified for application with LAFCO. A blanket annexation would eliminate one layer of processing for residents requesting connection to public sewer.

Staff Direction

Staff recommends the Commission direct staff to form an advisory committee to identify short and long-term solutions to public sewer service to unincorporated properties. Staff also recommends that LAFCO staff be further directed to facilitate discussions between the City of Orange, Third District office/County of Orange and

Orange County Sanitation District to address the immediate issues regarding OPA and future out-of-area service agreements.

ENVIRONMENTAL REVIEW

This project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to §15319(b) of the State CEQA Guidelines.

PROPERTY TAX

No property tax exchange will occur as a result of these proposals pursuant to the Master Property Tax Agreement adopted by the Board of Supervisors for enterprise special district reorganization proposals.

RECOMMENDATIONS

Staff recommends that the Commission take the following actions:

1. Adopt the resolution approving the "Sullivan Annexation to the Orange County Sanitation District" (DA 05-16). (See Attachment C.) LAFCO waives conducting authority proceedings pursuant to Government Code Section 56663. Approval is subject to the following terms and conditions:
 - a) Payment of Recorder and State Board of Equalization fees.
 - b) The applicant agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers and employees from any claim, action or proceeding against LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of LAFCO concerning this proposal or any action relating to or arising out of such approval.
 - c) The effective date shall be the date of recordation.
2. Direct staff to convene a sewer service advisory committee for unincorporated areas.

Respectfully submitted,

JOYCE CROSTHWAITE

KIM KOEPPEN

Attachment: A, Out of Area Service Agreement
B, City of Orange/OCSD Correspondence
C, LAFCO Resolution

Exhibit: 1, Location Map

Agc. 4841
 RECORDING REQUESTED BY
 AND, WHEN RECORDED,
 MAIL TO:

City of Orange
 300 East Chapman Avenue
 Orange, California 92866

Attn: City Clerk

Recorded in Official Records, Orange County
 Tom Daly, Clerk-Recorder



NO FEE

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CONFORMED COPY

[Space above this line for Recorder's use only.]

This document is recorded at the request and for the benefit of the City of Orange and is exempt from the payment of a recording fee pursuant to Government Code Sections 6103 and 27383.

SEWER SERVICE AGREEMENT

THIS SEWER SERVICE AGREEMENT (herein referred to as the "Agreement") is entered into as of this 1st day of March, 2006, by and between the **CITY OF ORANGE**, a municipal corporation (herein referred to as the "City"), and **PHILLIP JAMES SULLIVAN** and **SUSAN LYN SULLIVAN**, Husband and Wife, as community property (herein referred to collectively as the "Owner"), with reference to the following:

A. The Owner owns that certain real property commonly known as **10380 S. Randall Street (Assessor's Parcel No. 379-582-12)** and more particularly described on Exhibit A attached hereto (herein referred to as the "Owner's Property"). The Owner's Property is located within the unincorporated portion of the County of Orange, State of California; and

B. While the sewage and wastewater needs of the Owner's Property are presently served by septic tank systems, the City has existing sewer lines and facilities in Randall Street adjacent to the Owner's Property, which are at a sufficient capacity to provide service to the Owner's Property; and

C. While it is not legally possible to annex the Owner's Property into the City of Orange at this time, it is the desire of the Owner to obtain sewer service from the City pending later annexation of the Owners' Property to the City if and when it is legally possible to do so; and

D. More particularly, the Owner desires to have the City consent to the Owner providing sewer service to the Owner's Property by the installation and extension, at the Owner's sole cost and expense, of a sewer lateral and related improvements from the private property line of the Owner's Property to the City's existing sewer main located in Randall Street; and

E. The City is willing and able to provide sewer service to the Owner's Property

subject to the terms and conditions of this Agreement; and

F. The City is willing to furnish sewer service to the Owner and the Owner's Property in consideration for the Owner's agreement to pay to the City the City's sewer installation charges for the same; provided that the Owner will agree to the annexation of the Owner's Property to the City if and when it is determined by the City to be legally possible to do so; and

G. The provision of sewer service by the City to the Owner's Property pursuant to the terms and conditions of this Agreement will not adversely impact sewer service to other City customers or result in a significant loss of revenue to the City; and

H. The Owner and the City wish to set forth the circumstances and terms and conditions under which the City will provide sewer service to the Owner's Property; and

I. The public interest, economy, and general welfare will be served by this Agreement.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THESE PREMISES AND THE TERMS AND CONDITIONS HEREIN, THE ADEQUACY AND LEGAL SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. The City hereby agrees to furnish, and the Owner hereby agrees to accept, the City's sewer service to the Owner's Property in accordance with the terms and provisions of this Agreement.

2. The City hereby agrees to and shall review and approve the Plans for the connection of the Owner's Property to the City's sewer system in accordance with the City's standard procedures and subject to compliance with all applicable federal, state and local statutes and regulations and the Owners' satisfaction of all of the terms and conditions of this Agreement.

3. Provided that the Owner's application for sewer service and Plans for connection to the City's sewer system meet the specifications of the Orange Municipal Code and any and all local rules and regulations related thereto and that the Owner constructs the sewer lateral and related improvements from the private property line of the Owner's Property to the City's existing sewer main located in Randall Street, at the Owner's sole cost and expense, to the satisfaction of the City's Director of Public Works (herein referred to as the "Director"), the City hereby agrees to and shall thereafter provide sewer service to the Owner's Property and shall provide all customer service functions associated with providing service to the Owner's Property. In consideration therefor, the Owner hereby agrees to pay to the City the established sewer installation charge assessed by the City for connection to the City's sewer system set forth in Exhibit C hereto, and paid by the owners of similarly situated real property.

4. Prior and as a condition precedent to the City's obligation to provide sewer service to the Owner's Property, the Owner hereby agrees to and shall satisfy the following

conditions:

(a) Secure from the County of Orange (herein referred to as the "County") and any other public agency having jurisdiction all easements, permits and/or other approvals and consents necessary and appropriate to permit the Owner to install the improvements necessary to connect to the City's sewer line and that the Owner shall pay all fees related thereto. The City will use its best efforts to assist the Owner in securing such easements, permits, and/or other approvals and consents.

(b) If not currently located within the Orange County Sanitation District (herein referred to as the "Sanitation District"), make application to the Sanitation District for annexation to the Sanitation District.

5. In connection with the Owner's performance of such work of improvement (with "Owner", as used herein to specifically include any of the Owner's agents, contractors, or employees), the Owner hereby agrees and covenants to repair or cause to be repaired any portion of a public street or rights-of-way affected by the Owner's work or other acts at the Owner's expense and in accordance with the City's and County's (as the case may be) rules and ordinances regulating street excavations. In the event that the Owner shall fail or neglect to make (or cause to be made) such repairs, then thirty (30) days after notice therefor has been given to the Owner by the City, the City may repair said streets or rights-of-way at the expense of the Owner, and upon the presentation of a bill therefor the Owner shall pay the same within thirty (30) days after receipt. The amount so chargeable to the Owner in such case shall be the actual cost of such repair.

6. The work of construction, maintaining or repairing any facilities within the public streets or rights-of-way subject to this Agreement shall be conducted with the least possible hindrance to the use of the streets for purposes of travel, and as soon as such work is completed all portions of the public streets and rights-of-way which have been excavated or otherwise damaged thereby shall be placed in as good condition as they were in before the commencement of such work, to the satisfaction of the Director.

7. As further consideration for the provision of sewer services to the Owner's Property, the Owner hereby agree not to file protest, either written or otherwise, against annexation of the Owner's Property to the City of Orange at such time as the City determines it to be legally possible to annex the Owner's Property to the City and delivers notice thereof to the Owner. Moreover, the Owner hereby agree to cooperate with the City and take all reasonable action deemed necessary by the City to effect the annexation of the Owner's Property to the City, including the execution of all documents necessary and appropriate to carry out and implement the annexation of the Owner's Property to the City. If the Owner should protest annexation of the Owner's Property, the City may, at its option, elect to terminate the sewer services afforded to the Owner's Property by this Agreement.

8. Nothing contained in this agreement shall be construed as representing the establishment of any precedent or the formation of any policy by City to supply sewer service or

any other City service in the future to any unincorporated territory on the terms and conditions contained herein or on any terms and conditions whatsoever.

9. Owner understands and agrees that in the event the Owner fails, neglects or refuses to actually connect to City-owned sewers on or before three hundred sixty (360) days from the date of the execution of this Agreement, this Agreement shall be null and void and of no further force or effect. Provided, however, that in the event that the City Council finds and determines that the Owner was unable to actually connect with City-owned sewers, this period may be extended on such terms as the City Council may find to be just, fair and equitable.

10. This Agreement shall be recorded in the Official Records of the County of Orange, State of California. All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

11. Each and all of the grants, terms, covenants and agreements created hereby (a) are made for the direct benefit of the City, (b) shall constitute covenants running with the land, and (c) shall be binding upon and shall benefit all successors-in-interest and assigns of the Owner and the City.

12. Owner understands that inasmuch as Resolution No. 5158, a copy of which is attached hereto as Exhibit B, is applicable to the Owner's Property, that Owner has read and understands the policy of the City Council as set forth in said Resolution, and Owner agrees to be bound by this policy so long as the City shall adhere thereto.

13. This Agreement may be cancelled, changed, modified or amended in whole or in part only by a written and recorded instrument executed by the City and the Owner (or their respective successors and assigns).

14. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest in and to the Owner's Property (or either of them); provided, however, that any subsequent owner of the Owner's Property (or either of them) shall be bound by such covenants, conditions, restrictions, limitations, and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

15. Whenever performance is required of any party hereunder, that party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, or damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of a party (acts by the performing party causing the situation to be beyond reasonable control excepted), then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.

16. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person or circumstance, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

17. Any notice to any party shall be in writing and given by delivering the same to such party in person or by sending the same by registered or certified mail, return receipt requested, with postage prepaid to the party's mailing address. The respective mailing addresses of the parties thereto are, until changed as hereinafter provided, the following:

IF TO OWNER: Phillip & Susan Sullivan
 10380 S. Randall Street
 Orange, Ca. 92869
 Telephone: (714) 532-3222

IF TO CITY: City of Orange
 300 E. Chapman Avenue
 Orange, CA 92866
 Attn: Director of Public Works
 Telephone: (714) 744-5545
 Facsimile: (714) 744-5573

Any party may change its mailing address at any time by giving written notice of such change to the other parties in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

Every notice (other than the giving or withholding of consent, approval or satisfaction under this Agreement, but including requests therefor) given to a party or other person shall comply with the following requirements. Each such notice shall state: (i) the paragraph of this Agreement pursuant to which the notice is given; and (ii) the period of time within which the recipient of the notice must respond or if no response is required, a statement to that effect. Each request for consent or approval shall contain reasonably sufficient data or documentation to enable the recipient to make an informed decision.

18 This writing constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all oral or written representations or written agreements which may have been entered into between the parties. No modification or revision shall be of any force or effect, unless the same is in writing and executed by the parties hereto. If any provision of this Agreement shall be held invalid, such invalidity shall not affect the other provisions hereof, and to this extent, the provisions of this Agreement are intended to be and shall be deemed severable.

19. Time is of the essence of this Agreement and each and every provision hereof.

20. In the event that the Owner fails to comply with this Agreement, the City will have, in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, written notice of the violation will be given to the Owner.

21. The Owner will not be in default under this Agreement except under such provisions as require the performance of an act on or before a specific date or within a specified period of time, unless Owner has been given a written notice specifying the default and (a) fails to cure it within the period of thirty (30) days, or (b) commences to cure the default within such period of time, and if the default cannot be cured within the specified times above in (a), if Owner thereafter does not diligently proceed to complete the curing of the default.

22. The term of this Agreement shall commence on the execution hereof and shall remain in full force and effect unless terminated by the mutual agreement of the parties.

23. This Agreement shall be governed by the laws of the State of California. Any legal action concerning or arising out of this Agreement shall be filed in a court of the State of California having jurisdiction of the subject matter, and venue shall be in the County of Orange, State of California.

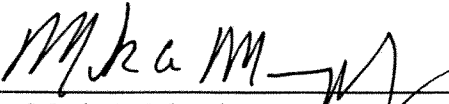
24. During the period of construction, the Owner agrees to and shall indemnify and hold the City and its officers, employees, contractors and agents harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the location of the sewer system improvements, and which shall be directly or indirectly caused by any acts done thereon by, or any errors or omissions of, the Owner or the Owner's employees, contractors and agents. At all times during the pendency of construction, the Owner shall maintain or cause to be maintained (either itself or through its general contractor) commercial general liability insurance on an "occurrence" basis against claims for "personal injury", including death, bodily injury or property damage liability and in an amount not less than \$1,000,000 and such additional insurance as may be reasonably required by the City from time to time. The Owner shall also furnish or cause to be furnished to the City evidence satisfactory to the City that any contractor with whom the Owner has contracted for the performance of the work contemplated by this Agreement carries workers' compensation insurance as required by law.

25. The Owner shall notify the City prior to commencing any construction activity within the public streets or rights-of-way and prior to making connection to the City's sewer system.

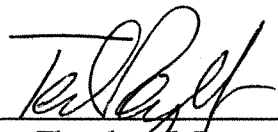
IN WITNESS WHEREOF, the City and the Owner have caused this Agreement to be executed as of the date first set forth hereinabove.

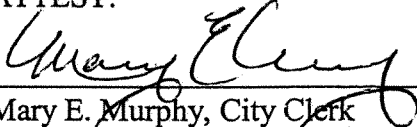
"CITY"

CITY OF ORANGE, a municipal corporation

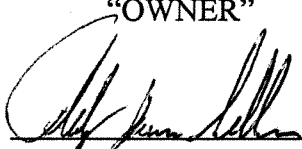
By: 
Mark A. Murphy
Mayor of the City of Orange

APPROVED AS TO FORM:
David A. De Berry, City Attorney

By: 
Theodore J. Reynolds
Assistant City Attorney

ATTEST:

Mary E. Murphy, City Clerk

"OWNER"


PHILLIP JAMES SULLIVAN


SUSAN LYN SULLIVAN

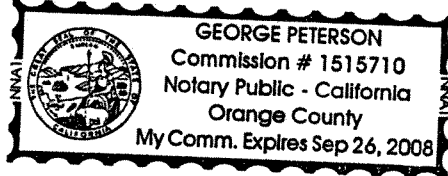
State of California)
) ss
County of Orange)


On 10/5, 2005, before me, GEORGE PETERSON, COMMISSIONER
personally appeared PHILIP JAMES SULLIVAN AND SOHAN LYNN SULLIVAN

- ☐ personally known to me -OR—
☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity/ies, and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

Witness my hand and official seal.




(Signature of Notary)

(This section is optional.)

Capacity claimed by signer:

- ☐ Individual
☐ Corporate Officer(s): _____
☐ Partner(s):
 ☐ General ☐ Limited
☐ Attorney-in-fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Signer is representing: _____
(name of person(s) or entity(ies))

Attention Notary: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to an unauthorized document.

THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT:

Title or Type of Document: _____

Number of Pages: _____ Date of Document: _____

Signer(s) Other than Named Above: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF OWNER'S PROPERTY

THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING LOT 70 OF TRACT 752, ORANGE PARK ACRES, AS PER MAP RECORDED IN BOOK 25, PAGES 12 THRU 14 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT "B"

RESOLUTION NO. 5158

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE FINDING AND DETERMINING THAT NEITHER ANNEXATION NOR FURNISHING SEWER SERVICES TO PROPERTIES WHICH ARE PART OF LARGER UNINCORPORATED BUT DEVELOPED AREAS AND CONDITIONED ON AGREEMENT TO ANNEX TO THE CITY SHALL NOT BE CONSTRUED AS IMPOSING ANY OBLIGATION ON THE CITY TO PROVIDE OR INSTALL ANY URBAN STREET OR OTHER URBAN PUBLIC IMPROVEMENTS TO SERVE SUCH PROPERTIES.

WHEREAS, in recent years the City Council has supplied City sewer services to many individual parcels of property which parcels are part of larger unincorporated areas which were developed long before the annexation of those parcels; and

WHEREAS, such parcels were supplied City sewer services if property owners paid applicable fees and charges and either annexed or agreed to annex said properties to the City; and

WHEREAS, examples of such larger unincorporated areas which have developed adjacent to the city limits are the areas known as Olive, Orange Park Acres and the Walnut area near the Orange Drive-In; and

WHEREAS, most properties in these unincorporated areas have been developed with single family residences on lots of varying sizes and with street and similar public improvements appropriate for rural areas; and

WHEREAS, the long established policy of the City has been to require development and installation of urban street and similar urban public improvements by the original developers of the adjacent private properties; and

WHEREAS, the majority of property in these formerly unincorporated areas are now developed and therefore no urban street or similar urban public improvements can be required by the City to be installed by developers; and

WHEREAS, the possibility exists that, in the future, property owners in these developed areas could petition the City to install urban street and similar urban public improvements once their properties are annexed into the City; and

WHEREAS, the City Council intends by the phrase "... urban street and similar urban public improvements..." to include, but not be limited to, street curbs and gutters, sidewalks, street lights, storm drains, City water mains and traffic signals; and

WHEREAS, urban public improvements are also intended to include public improvements unique to these large unincorporated areas such as equestrian trails; and

EXHIBIT "B"

WHEREAS, the City Council wishes to clearly enunciate a policy opposing the expenditure from City general tax revenues for installation of urban street and similar urban public improvements in these developed but formerly unincorporated areas since all taxpayers of the City would bear the burden for such improvements and the extent and cost of these improvements could be excessive due to the size of these areas; and

WHEREAS, the City Council wishes to make clear the City's demand to owners of unincorporated property in these areas that annexation into the City is required as a condition to receiving City sewer services shall not be construed as any promise or commitment on the part of the City to pay for the installation of urban street and similar urban public improvements to serve such properties from the general tax revenues of the City; and

WHEREAS, the City Council wishes to clearly enunciate a policy that the cost of any such urban street and similar urban public improvements in these areas shall be borne by the properties in these areas receiving the benefit of those urban improvements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Orange, that general funds of the City shall not be used to install urban street and similar urban public improvements in formerly unincorporated but developed areas such as Olive, Orange Park Acres and Walnut, but such improvements shall be financed by methods designed to place the burden of such improvements on the property benefitted.

BE IT FURTHER RESOLVED that the City Council of the City of Orange hereby determines that this resolution shall be recorded with the Office of the Orange County Recorder together with legal descriptions of the properties located in the aforementioned and described areas at the time of the annexation of these properties to the City in order that the owners of these properties and their successors in interest shall be made aware of the policy of the City Council as set forth herein.

ADOPTED this 19th day of February, 1980.


MAYOR OF THE CITY OF ORANGE

ATTEST:


CITY CLERK OF THE CITY OF ORANGE

I hereby certify that the foregoing resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the 19th day of February, 1980, by the following vote:

AYES: COUNCILMEN: BARRERA, MAYOR HOYT, PEREZ, BEAM
NOES: COUNCILMEN: NONE
ABSENT: COUNCILMEN: SMITH

EXHIBIT "C"

LIST OF FEES

Address: 10380 S. Randall Street

Lot Size: 13,300 sq. ft.

Sewer Fees:

1. Orange County Sanitation District Fee

Capital Facilities Capacity Charge	\$2,890.00
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Total	\$2,890.00
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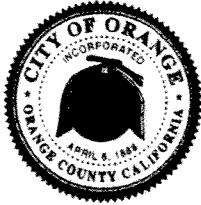
2. City of Orange Sewer Installation Fees

Sewer Connection Charge, \$40 x 80	= \$3,200.00
------------------------------------	--------------

Future Improvement Charge, \$584 x 13,000 / 43560	= \$ 178.31
---	-------------

Sewer Maintenance Charge (one-time)	\$ 500.00
-------------------------------------	-----------

Total	\$3,878.31
-------	------------

**CITY OF ORANGE****RECEIVED**
FEB 27 2006

LOCAL AGENCY FORMATION COMMISSION

CITY MANAGER

PHONE: (714) 744-2222 • FAX (714) 744-5147

February 21, 2006

Mr. James D. Ruth
Interim General Manager
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley CA 92708

Dear Mr. Ruth: 

This letter is in response to your February 6, 2006 correspondence to our Mayor pro tem Carolyn Cavecche. I would like to respond and clarify issues contained in your letter. As you know, the City of Orange and the Orange County Sanitation District (OCSD) have enjoyed a good working relationship. We have partnered with your agency on many projects that benefited the City of Orange. That being said, please note that the issue raised in your letter pertains to areas outside the boundaries of the City of Orange and within the jurisdiction of the County of Orange.

The City of Orange shares your concern regarding the timely annexation of Orange Park Acres (OPA) to the OCSD which allows for the connection of properties to a sewer system within the unincorporated portion of the County. The City of Orange currently has no agreement with the County or OCSD delegating responsibility to the City to be the sewerage agency for OPA. This issue has been discussed with representatives of OCSD, the County, and LAFCO over the past several years, but has yet to be resolved.

In the interim, the City has attempted to accommodate requests from OPA residents to provide sewer service by entering into agreements with individual property owners. This process puts the homeowner in the lead position which places the financial burden on the homeowner to build and fund the sewer infrastructure. The City has not been authorized by the County or OCSD to permit the construction of sewer lines and laterals within County streets and has no legal authority to accept ownership of such infrastructure, however, we are currently in the process of preparing updated form agreements to be used under various factual situations that OPA residents have presented to us in an effort to continue the process of accommodating OPA residents. As you know, the LAFCO Board must also approve our use of such form agreements prior to annexation to the OCSD.

Letter to James D. Ruth
February 21, 2006
Page 2 of 3

As previously discussed between staff members from the County, OCSD, LAFCO and the City, the accommodation the City has been making by entering into sewer service agreements with individual property owners in OPA was to have only been an interim solution to the unincorporated sewer service issue. Concurrent with the City's efforts, the following actions were to have occurred:

- The County was to execute an agreement with the City of Orange designating the City as sewerage agency. *This effort has not begun.*
- OCSD was to complete a blanket annexation in the Sanitation District of the Orange Park Acres area. *This has not been completed.*
- OCSD was to provide the City with the Sewer Master Plan for this area to ensure the sewer infrastructure that was being put in place met their long-term goals for the entire area. *This was completed and has been a very useful tool; however, neither OCSD nor the County has implemented that plan.*
- The City of Orange was to prepare new Out-of-Service agreements for LAFCO's review and approval. *This is currently in progress.*

As noted above, little progress has been made in the past year to find a long-term solution for the sewerage needs of OPA yet the City of Orange has been unfairly singled out as being responsible for solving these issues. We do not believe that the City should take the lead in implementing the construction of sewer facilities in the unincorporated area of the County. To continue with the process presently in place, we require construction of a system to replace existing septic systems for properties within OPA, compensation to the City of Orange for operation and maintenance (O&M) of sewer facilities located within County right-of-way, and authorization for the City to accept ownership of, and to perform O&M on, sewer facilities located or to be located within the County right-of-way. Without such an agreement, the City of Orange cannot be the sewer service agency within OPA. In our view, it is up to the County or OCSD.

We are looking to OCSD to take the leadership role in this issue to help develop an action plan that provides, at a minimum, the following **crucial steps for a permanent solution**:

- 1) The County and the City would enter into a mutually acceptable agreement designating the City as the sewer-servicing agency for Orange Park Acres. Should such an agreement **not be executed by June 2006**, the County or OCSD would be required to provide sewer service to Orange Park Acres until the issue can be resolved. One of the conditions to the City's execution of such an agreement would be for OCSD to annex OPA into OCSD's service area.

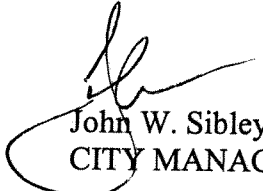
Letter to James D. Ruth
February 21, 2006
Page 3 of 3

- 2) The County or OCSD will develop a program to implement construction of the Master Plan which OCSD has prepared for the area.
- 3) To resolve the current sewer service needs of OPA citizens, the City will process requests for the connection of sewer laterals to existing sewers owned by or dedicated to the City of Orange. However, OCSD or the County would be responsible for entering into separate construction agreements with such residents to build the sewer mains before the City would issue a connection permit and process any "out of area" sewer service agreements through LAFCO.

I believe that resolution of these issues is in the best interest of our respective agencies to ensure service to the residents of the unincorporated area. I suggest that OCSD schedule a meeting with the appropriate representatives of LAFCO, County Supervisor Campbell and City representatives to discuss the above action plan before the aforementioned June, 2006 deadline.

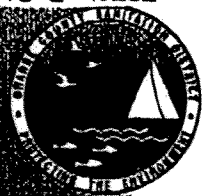
I look forward to working with you to find a resolution to this issue. If you have any questions or would like to discuss this matter further, please contact me directly or contact Irma Hernandez, Senior Assistant to the City Manager, at (714) 744-2205.

Sincerely,



John W. Sibley
CITY MANAGER

Cc: Orange County Supervisor, Bill Campbell
Mayor and City Council
Thomas G. Mauk, County Executive Officer
Joyce Crosthwaite, LAFCO Executive Officer
Gail Farber, Public Works Director
Ted Reynolds, Assistant City Attorney
Irma Hernandez, Senior Assistant to the City Manager



ORANGE COUNTY SANITATION DISTRICT

February 6, 2006

RECEIVED

FEB 09 2006

Carolyn Cavecche
City of Orange
300 E. Chapman Avenue
Orange, Ca 92866

Subject: Sewer Service and Reimbursement Agreements for the Sullivan Annexation to the City of Orange and the Orange County Sanitation District

The Orange County Sanitation District (Sanitation District) has been asked to reorganize the previously approved Sullivan Annexation to the Sanitation District (which involves seven other property owners).

Our board approved the Annexation in April, 2005 and sent it to the Local Agency Formation Commission (LAFCO) in May, 2005 to complete the process. The agreement was then sent to the City of Orange's legal staff, where the process has not been completed or approved.

Several of the properties have a failed septic system and need to connect. Please let me know if either I or my staff can be of service to help finalize the Agreements so the property owners can connect to a public sewer. Please contact Bob Chenowith of our office if we can assist your legal staff.

We look forward to working with you and your legal staff to get the property owners connected to a public sewer.

Thanks for your corporation in this matter.

James D. Ruth
Interim General Manager

JDR:gg

H:\dept\admin\110\RUTH JAMES\Corres 2006\020608 Ltr to CCavecche re City of Orange Sullivan Annex.doc

CC: Irma Hernandez

ATTACHMENT C

DA 05-16

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF ORANGE COUNTY, CALIFORNIA
MAKING DETERMINATIONS AND APPROVING THE
SULLIVAN ANNEXATION TO THE
ORANGE COUNTY SANITATION DISTRICT**

April 12, 2006

On motion of Commissioner _____, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed annexation to the Orange County Sanitation District, designated as "Sullivan Annexation to the Orange County Sanitation District" (DA 05-16), was heretofore filed with and accepted for filing on April 5, 2006 by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set April 12, 2006 as the hearing date of this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendation thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, this Commission on April 12, 2006 considered the proposal and the report of the Executive Officer, and considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668; and

WHEREAS, this Commission called for and held a public hearing on the proposal on April 12, 2006, and at the hearing, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

ATTACHMENT C

WHEREAS, information satisfactory to this Commission has been presented that all the owners of land within the proposed territory have given their written consent to the annexation; and

WHEREAS, pursuant to the California Environmental Quality Act, the project is categorically exempt pursuant to Section 15319 of the State CEQA Guidelines.

NOW, THEREFORE, the Local Agency Formation Commission of the County of Orange DOES HEREBY RESOLVE, DETERMINE and ORDER as follows:

- Section 1. The proposal is approved subject to the following terms and conditions:
- 1) Payment by the applicant of Recorder and State Board of Equalization fees.
 - 2) The applicant agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers, and employees from any claim, action or proceeding against LAFCO and/or its agents, officers and employees to attack, set aside, void, or annul the approval of LAFCO concerning this proposal or any action relating to, or arising out, of such approval.
 - 3) The effective date shall be the date of recordation.
- Section 2. The annexing area is found to be uninhabited, is within unincorporated Orange County, and is assigned the following distinctive short-form designation: "Sullivan Annexation to the Orange County Sanitation District" (DA 05-16)
- Section 3. The Commission authorizes that protest proceedings be waived in accordance with Government Code Section 56663(c).
- Section 4. The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Section 56882 of the Government Code.

AYES:

NOES:

STATE OF CALIFORNIA)

ATTACHMENT C

) SS.

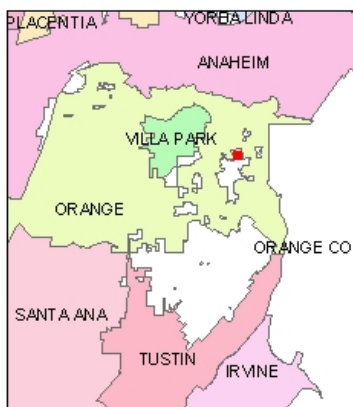
COUNTY OF ORANGE)

I, ROBERT BOUER, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 12th day of April, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of April, 2006.



ROBERT BOUER
Chair of the Orange County
Local Agency Formation Commission

By: _____
Robert Bouer



SULLIVAN ANNEXATION
TO THE
ORANGE COUNTY SANITATION DISTRICT
DA 05-16

Legend

-  Proposed Annexation Boundary
-  Orange County Sanitation District Boundary

03/31/06

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